THE Attorney's Practice IN THE Court of Common Pleas:

OR, AN

INTRODUCTION

TO THE

Knowledge of the Practice of that Court, as it now ſtands on the Regulation of ſeveral late Acts of Parliament, Rules and Determinations of the ſaid Court:

WITH

Variety of uſeful and curious Precedents in *Engliſh*, ſettled or drawn by Counſel; and a complete *Index* to the Whole.

By the AUTHOR of
The Attorney's Practice in the Court of King's Bench.

In the SAVOY:

Printed by HENRY LINTOT (Aſſignee of *Edw. Sayer*, Eſq;) for T. WOODWARD, at the *Half Moon*, between the *Temple-Gates* in *Fleetſtreet*. MDCCXLI.



THE

PREFACE.

THE Attorney's Practice in the Court of King's Bench *having met with a very favorable Reception, and been univerſally allowed to be the moſt uſeful Book of the Kind hitherto publiſhed, the Author of it was from thence induced to compile the following Work, which he has formed on the ſame Plan with the former; herein are ſet forth under their proper Heads the ſeveral Acts of Parliament relating to the Practice, ſuch Rules of the Court as are now in Force, adjudged Caſes on moſt Points of Practice, and a great Variety of uſeful Precedents.*

The Statutes and Rules of the Court are not ſet forth in a brief or ſummary Way, but the enacting and ordering Parts generally at large, ſo that the Reader will ſcarce ever have Occaſion to apply to the Statutes or Rules themſelves.

To the Acts of Parliament, Rules of Court and adjudged Caſes, the Author

has chiefly confined himself in this Work, chooſing, rather to be ſilent, than to ſay any Thing, for which he had not a ſufficient Authority, and being cautious of nothing more than leading the young Practicer into a Miſtake.

The Precedents, of which the greateſt Part was drawn by Counſel, are ſuch as will be moſt frequently wanted in the general Courſe of Buſineſs.

To render this Book the more Uſeful a very copious Index *is added, drawn under a great Variety of Heads, ſo that the Reader may with Eaſe apply to any particular Matter he ſhall want.*

Note; An Act of Parliament paſſed the laſt Seſſions, intituled, *An Act to prevent Inconveniences ariſing from Delays of Cauſes after Iſſue joined*; which has impowered the Court to give Judgment, as on a Nonſuit, where the Plaintiff ſhall not try his Cauſe in due Time; and has altered the Practice as to giving Notice of Trial, and Countermanding it, where the Defendant lives above forty Miles from *London*. This Statute being publiſhed after the greateſt Part of this Book was printed, the Author could not take Notice of it in it's proper Place, but the Reader will find it more fully ſet forth in the *Index*, under the Title *Trial*, Nº. 5. and Nº. 34.

THE

THE ATTORNEY'S PRACTICE IN THE Court of Common Pleas.

Of the Juriſdiction of the Court.

ALL Pleas are regularly divided into Pleas of the Crown, and into Common or Civil Pleas. Pleas of the Crown are Treaſons, Felonies, Miſpriſions of Treaſons, *&c.* This Court is the Lock and Key of the Common Law in Common Pleas, and therefore called the *Court of Common Pleas*; for in this Court real Actions, whereupon Fines and Recoveries (the common Aſſurances of the Realm) do paſs, and all other real Actions by original Writs, are to be determined. In all perſonal and mixt Actions, this Court and the Court of *King's Bench* have a concurrent Juriſdiction.

The Juriſdiction of this Court is general, and extendeth itſelf throughout all *England*.

Generally all Suits in this Court are founded upon original Writs iſſuing out of the *Chancery*, and returnable in this Court, whereupon the Plaintiff proceeds either to arreſt the Defendant, outlaw him, or ſerve him with a Copy of Proceſs, purſuant to the Statutes 12 *G.* 1. *c.* 29. 5 *G.* 2. *c.* 27.

But this Court may hold Plea on Writ of Privilege iſſuing originally out of this Court at the Suit of any Attorney, Officer, Miniſter, or Clerk of the Court intitled to ſuch Writ.

It may alſo hold Plea by Bill, which is in the Nature of a Petition to the Court, againſt any Attorney, Officer or Miniſter, intitled to the Privilege of the Court.

A Knight, Citizen, Burgeſs, or other Perſon intitled to Privilege of Parliament, may be ſued in this Court by original Bill, in manner as directed by the Statute 12 & 13 *W.* 3. *c.* 3.

This Court may, upon proper Suggeſtions, grant Prohibitions to keep, as well Temporal as Eccleſiaſtical Courts, within their proper Bounds and Juriſdictions, without any original Writ or Plea depending; for the Common Law, which in theſe Caſes is a Prohibition of itſelf, ſtands inſtead of an Original.

Actions are alſo removed into this Court out of inferior Courts of Record by Writ of *Habeas Corpus cum Cauſa* or *Certiorari*; and out of inferior Courts not of Record by *Pone*, *Tolt*, *Recordari*, *Accedas ad Curiam*, or Writ of falſe Judgment.

This

This Court hath alſo Juriſdiction for the Puniſhment of it's own Officers and Miniſters, and all other Perſons guilty of Contempts againſt the Rules and Orders of the Court.

The Court conſiſts of a Chief Juſtice and three Puiſne Judges, created by Letters Patent; but no one can be conſtituted a Judge of this Court, unleſs he be a Serjeant of the Degree of the Coif.

Officers of the Court of Common Pleas.

THE *Cuſtos Brevium* is the firſt or principal Officer of the Court of *Common Pleas*, and holds his Place by Grant from the Crown; the preſent Patentee is the Right Honorable the Earl of *Litchfield*, who executes the ſaid Office by *Walter Baynes*, Eſq; his Deputy. *Cuſtos Brevium.* *His Appointment.*

The Duty of this Officer is to record and file in his Office all Original and Judicial Writs, and Inquiſitions taken by virtue of any ſuch Writs, all Poſteas after Verdicts, and Fines, with the Concords ſigned by the Parties acknowledging the ſame; and the Writs of *Dedimus Poteſtatem* iſſued for taking the Acknowledgment of ſuch Fines, with the Tranſcripts thereof, *&c.* which Fines are by him entered in a Book of the ſame Term the reſpective Writs of Covenant are returnable, and the Proclamations of ſuch Fines are by him indorſed, upon the Captions, according to the Statute. He is alſo to re- *And Duty.*

cord and file all Writs of Entry and Summons, Writs of *Dedimus Poteſtatem* for taking Warrants of Attorney thereupon, and Writs of Seiſin to ſupport Recoveries ſuffered in the ſaid Court; to make Copies and Exemplifications of the ſaid Writs and Records when required, and to return Writs of *Certiorari* directed to him for the Removing any Writs or other Records into the Court of *King's Bench.*

Prothonotaries. Their Appointment, &c. There are three Prothonotaries of this Court, who hold their Offices for their reſpective Lives, and are admitted by the Chief Juſtice of the Court for the Time being. The ſecond Prothonotary is admitted on the Nomination of the *Cuſtos Brevium*, who, in Right of his Office, has the Appointment of the ſecond Prothonotary. Each of the three Prothonotaries has belonging to his Office, one ſecondary, one Clerk of the Judgments, and one Clerk of the Dockets. The preſent Prothonotaries are *George Cooke*, Eſq; firſt, or chief Prothonotary; *Richard Thomſon*, Eſq; ſecond Prothonotary, and *Thomas Borret*, Eſq; third Prothonotary.

The Duty of the Chief Prothonotary. The chief Prothonotary adminiſters the Oaths to the Officers and Attornies of the Court; enters on Record the Patents of the Juſtices, and the Patents, Surrenders and Admiſſions of the other Officers of the Court. He enters on a Remembrance Roll the Names of all Attornies ſworn in Court, and makes Certificates thereof to

the Clerk of the Warrants, who thereby enters their Names in the Roll of Attornies. He enters all Writs of Adjournment of the Terms; he draws up the general Rules of the Court, made for regulating and ſettling the Practice in the Proceedings therein, and cauſes the ſame to be ingroſſed, and hung up in the Treaſury Chamber at *Weſtminſter*, and gives Copies thereof to the Judges, and to the other Prothonotaries, and Officers of the Court, if required, without any Fee. He adminiſters the Oaths and Declarations taken to the Government; and keeps an alphabetical Liſt of the Names of the Perſons taking the ſame; and files in his Office the Certificates brought in by them; and alſo the Rolls on which they ſubſcribe their Names. He has the Cuſtody of the Court-Book, in which are entered the Names of all Cauſes on Demurrers, ſpecial Verdicts, and other Matters that are to be argued in Court, and of Cauſes that are to be tried at Bar, with the reſpective Terms, Number-Rolls, and Offices in which they are entered, and takes Minutes of the Judgment of the Court in all Cauſes argued therein.

The chief Prothonotary is alſo Attorney for the City of *London* within this Court, and hath from the City yearly four Yards of black Cloth to make him a Gown; and a livery Fee of 1 *l.* 13 *s.* 4 *d.* is paid yearly to him by the Secondaries of *London*, as Deputy-Sheriff.

Duty of the three Prothonotaries.

The three Prothonotaries, in Term time, attend the Sitting of the Court at *Weſtminſter*, for the Diſpatch of ſuch Matters as ariſe from Cauſes entered in their reſpective Offices, and to inform the Court of the State of ſuch Cauſes, and to certify the Court in Matters of Practice when required. Each of the Prothonotaries has a public Office in one of the Inns of Court, at which they reſpectively attend every Afternoon, in Term time, and out of Term every Day (Sundays and Holidays excepted) from Nine in the Morning till One or Two, and from Four in the Afternoon till Eight or Nine.

It is their Duty to enter on Record all Declarations, Pleas, Replications, and Pleadings ſubſequent, Demurrers, Joinders in Demurrers, and Judgments. To enter all Bills filed againſt Attornies and other privileged Perſons, and Forejudgers thereon for want of Appearance. To ſign Writs of Attachment, *Habeas Corpus*, *Procedendo*, *Certiorari*, *Venire facias*, *Subpœna*, *Scire facias*, *Capias ad ſatisfaciendum*, *Fieri facias*, *Elegit*, *Habere facias poſſeſſionem*, *Habere facias Seiſinam*, *&c.* To ſtrike ſpecial Juries, and to ſign Records of *Niſi prius*. They are to ſee that all common Recoveries be carefully ingroſſed on Rolls of the Court, examined, docketted, and placed in their proper Offices, and the Writs belonging to the ſame filed with the *Cuſtos Brevium*, and to examine all Exemplifications of ſuch Recoveries.

Per-

Perſons committed by the Court for Contempt are examined on Interrogatories by the Prothonotaries, who make Reports thereon, and on other Matters refer'd to them by the Court, and tax Bills of Coſts, and ſtate the Debts and Coſts on Bills, Bonds, Mortgages, and other Securities, on References made to them by the Court, purſuant to the Act made in the 4th and 5th Years of Queen *Anne*, for the Amendment of the Law.

The Prothonotaries have the Cuſtody of all Common and Plea Rolls, and deliver the ſame out, and keep an Account of the Perſons Names to whom the Rolls are delivered, that they may be able to call for a Return of them, and make caret Papers, certifying Defaulters, in order to a Proſecution, purſuant to ſeveral Rules of the Court. They keep an Account of all Rolls received into their Offices, after proper Entries are made thereon, and keep Doggets of all Judgments, Entries of Writs, and other Entries, which they carefully examine with the Rolls, before they are delivered into the Office of the Clerk of the Eſſoins, or Clerk of the Warrants, and the Writs into the Office of the Clerk of the *Cuſtos Brevium*, which are afterwards, by the ſaid Officers, carried into the Treaſury of the Court, but the Dockets remain in the Prothonotaries Offices. The Prothonotaries likewiſe keep Remembrance Rolls, on which all Rules made in Court are entered, and on which all Re-

cognizances of Bail, Appearances, *Scire facia's*, and *Præcipe's* taken at the Bar on Common Recoveries, are entered.

Secondaries. There are three Secondaries in this Court, one belonging to each Prothonotary, who has the Nomination and Appointment of ſuch Secondary; which Appointment has been uſually for the joint Lives of the Prothonotary and Secondary. The preſent Secondaries of the Court, are, Mr. *Henry Fothergill*, Secondary to *George Cooke*, Eſq; chief Prothonotary; Mr. *Henry Paramor*, Secondary to *Richard Thomſon*, Eſq; ſecond Prothonotary; and Mr. *Henry Barnes*, who is Secondary to *Thomas Borrett*, Eſq; the third Prothonotary.

Their Appointment.

And Duty. The Secondaries in Term time attend the Court and the Judges in the Treaſury, to read all Records, Writings, Affidavits, Petitions, Papers, and Exhibits; to take Minutes of all Rules and Orders, and draw up the ſame, and take Recognizances in Court. They enter all Commitments of Priſoners, Diſcontinuances, and Satisfactions acknowledged upon Record, and amend Records by order of Court. They adminiſter the Oaths to Priſoners taking the Benefit of the late Act made for the Relief of Debtors, with reſpect to the Impriſonment of their Perſons; prepare Aſſignments of ſuch Priſoners Eſtate and Effects, and draw up Rules for their Diſcharge. On Trials at Bar they

they act as Aſſociates, that is, call the Jury out of, and in Court, read the Record, call the Defendant, read all written Evidence, call the Jury before a Verdict given, and record the Verdict, take Minutes of all ſpecial Verdicts, and draw up the ſame, and make Copies thereof for the Plaintiff, Defendant, and Judges. They take an Account of all Fines, and Recoveries paſſed, and ſuffered at Bar. And in Term time, after the Riſing of the Court, attend at their Offices to draw up the Rules and Orders made by the Court, or by the Judges in the Treaſury, and enter them on the Remembrance Rolls, and make Copies of them, when required. They enter all Rules to Declare, Plead, Reply, Rejoin, Sur-rejoin, Rebut, Surrebut, and join in Demurrer, and give Rules for the Attornies, and other Officers of the Court to appear to Bills filed againſt them. And file and copy all Affidavits, Papers, and Exhibits produced on Motions, Taxations of Coſts, or otherwiſe, and Suggeſtions and Proceedings in Spiritual Courts, when Prohibitions are applied for; and copy Interrogotaries and Examinations of Perſons committed for Contempts. On Complaints made by the Priſoners of the *Fleet Priſon* againſt the Warden, the Secondaries attend the Judges at ſuch Places as they appoint, and file, read, and copy all Affidavits and Exhibits produced on ſuch Complaints, and draw up all Orders made thereon.

There

Clerks of the Judgments.

Their Appointment.

There are three Clerks of the Judgments, one belonging to and appointed by each Prothonotary. The preſent Clerks of the Judgments are, Mr. *John Wakelin*, Clerk of the Judgments to *George Cooke*, Eſq; the chief Prothonotary. Mr. *William Luke* Clerk of the Judgments to *Richard Thomſon*, Eſq; the ſecond Prothonotary; and Mr. *Thomas Newſome* Clerk of the Judgments to *Thomas Borrett*, Eſq; the third Prothonotary.

And Duty.

It is the Duty of theſe Officers to draw up all final Judgments after Inquiſitions taken, Verdicts obtained, or Nonſuits had at *Niſi Prius*, and on Demurrers, and Iſſues joined upon *Nul Tiel Record*; and to draw up and enter all Continuances neceſſary in the aforeſaid Judgments. To draw up the Award of every *Decem Tales*, and enter the ſame on the Roll; to make out Writs of *Diſtringas Decem Tales*, and *Diſtringas Juratores*; and to draw up the Awards of Writs of *Elegit*, and Writs of Partition, and enter the ſame, with the Returns thereof, upon the Roll. To enter all Satisfactions to Judgments, when the ſame is done by the Order of a Judge, and not in open Court; and to exemplify any of the abovementioned Judgments, if applied for within a Year after the Signing of ſuch Judgments. And by the Statute 4 & 5 *W.* & *M.* *c.* 20. they are to deliver over to the Clerk of the Eſſoins Notes in writing of all Judgments entered by them

them respectively on Verdicts, Writs of Inquiry, Demurrer, and every other Judgment for Debt or Damages.

Clerks of the Dockets.

There are three Clerks of the Dockets, one belonging to, and appointed by each Prothonotary. Mr. *John Wakelin* is the present Clerk of the Dockets to the chief Prothonotary; Mr. *Thomas Buckle* to the second Prothonotary; and Mr. *Benjamin Johnson* to the third Prothonotary.

Their Appointment.

And Duty.

They enter upon Remembrance all Appearances to Writs of Attachment of Privilege, Writs of *Scire Facias*, Bills, and other Process, issued out of, and filed in the Offices of their respective Prothonotaries. They deliver out to the Attornies the Rolls whereon Pleadings are entered, and put them into a Numerical Order, when brought back; and make out Papers, called Caret Papers, of such as are wanting, and the Attornies Names to whom the same were delivered, and deliver Copies thereof to the Clerk of the Wrarants, and Clerk of the Essoins, to enable them to inform the Court thereof. They prepare Bail-Pieces or Recognizances entered into, to Attachments of Privilege, and other bailable Writs issuing out of the Prothonotaries Offices, and attend the Court, or a Judge, when such Recognizances are taken, and when such Bails are justified, or additional Bail is put in; and also, when the Defendant surrenders himself in Discharge of his Bail. They make Copies of all special Juries struck

ſtruck by the Prothonotaries, for the Plaintiffs and Defendants; and, when required, make Copies of Bills of Coſts, and Papers produced before the Prothonotaries on References, and of Reports made in Court by the Prothonotaries. They make Copies of Rules of Court from the Remembrance Rolls of Terms that are paſt. They alſo make out Certificates of Declarations not being filed according to the Rules of the Court againſt Priſoners, in order to their being diſcharged out of Cuſtody for want of Proceeding; and alſo Certificates of Writs of *Recordari*, and Writs of Falſe Judgment, not being filed according to the Courſe and Practice of the Court. And as Clerks to the Prothonotaries they make out Copies of all ſpecial Verdicts for the Judges, and Attornies concerned therein; and in the Abſence of the Prothonotaries they perform the common Buſineſs belonging to the Prothonotaries Offices.

Clerks of the Reverſals. Their Appointment.

Each Prothonotary of the Court hath a Clerk of the Reverſals belonging to his Office, nominated, and verbally appointed by ſuch Prothonotary. Mr. *John Wakelin* acts as Clerk of the Reverſals to the chief Prothonotary; Mr. *Thomas Buckle* acts as Clerk of the Reverſals to the ſecond Prothonotary; and, Mr. *Thomas Newſome* acts as the Clerk of the Reverſals to the third Prothonotary.

They

And Duty.

They draw up and enter the Reverſals of Outlawries, and enter the *Præcipe's* thereof on Remembrance, and draw up Certificates thereof to the Outlawry Office; and draw up and ingroſs the Bail-Pieces, or Recognizances, in order to ſuch Reverſals, and attend the Court and Judges therewith, and make out the *Superſedeas* when neceſſary.

Clerk of the Treaſury.

His Appointment.

Mr. *Thomas Maidſtone* holds the Place of Clerk of the Treaſury by parol Appointment from the Lord Chief Juſtice.

Clerks of the Jurats, or Under-Clerks of the Treaſury and Treaſury Keeper

The ſaid *Thomas Maidſtone* is alſo Clerk of the Jurats, or one of the Under-Clerks of the Treaſury, for the Counties of *Middleſex*, *Kent*, *Oxford*, *Hereford*, *Southampton*, *Wilts*, *Somerſet*, *Weſtmoreland*, and *Northumberland*, Cities of *London*, *Briſtol*, and Town of *Southampton*.

James Cecil is Clerk of the Jurats, or one of the Under-Clerks of the Treaſury, for the Counties of *Cornwall*, *Bucks*, *Surrey*, *Hertford*, *Cambridge*, *Norfolk*, *Leiceſter*, *Derby*, *York*, *Bedford*, *Huntington*, *Monmouth*, *Warwick*, and *Cumberland*, Cities of *York*, *Coventry*, *Norwich*, Towns of *Newcaſtle* upon *Tyne*, *Kingſton* upon *Hull*, and Borough of *Leiceſter*.

William Bellamy is Clerk of the Jurats, or one of the Under-Clerks of the Treaſury, for the Counties of *Berks*, *Gloceſter*, *Salop*, *Dorſet*, *Northampton*, *Nottingham*, and Town of *Nottingham*, Counties of *Suffolk* and *Suſſex*.

And

And *John Talbot* is Clerk of the Jurats, or one of the Under-Clerks of the Treaſury, for the County of *Devon*, City of *Exeter*, County of *Lincoln*, and City of *Lincoln*, County of *Worceſter*, and City of *Worceſter*, Counties of *Eſſex*, *Stafford*, *Rutland*, and City of *Glocester*.

Their Appointment. The Clerks of the Jurats, or Under-Clerks of the Treaſury, are admitted by the Lord Chief Juſtice of the Court, for the ſeveral Counties, Cities, and Towns in their reſpective Diviſions, and hold their Places for their Lives; Mr. *George Stubbs* is the Treaſury-Keeper, and holds his Place alſo by the parol Appointment of the Lord Chief Juſtice.

And Duty. The Duty of the Clerk of the Treaſury is to have the Care and Cuſtody of the Treaſury of the ſaid Court, which doth contain the Records of the ſame Court of all Common Recoveries, Entries of the Money which the King hath upon Fines; all Judgments and Iſſues, with the Pleadings and Verdicts thereon, Inrolments of Deeds, Warrants of Attorney, Filacers, and Exigenters Rolls, containing the Entries of Writs iſſuing out of their reſpective Offices, from the firſt Year of King *Henry* the Eighth incluſive, down to the preſent Time, bound up in diſtinct Bundles, and digeſted in their due Order and Courſe of Time. He is alſo to ſign all Copies taken from the Rolls, and all Records of *Niſi Prius* in the ſaid Court, and to keep a File of all Rules and Orders relating

lating to the ſaid Rolls. And no Exemplifications, (except Exemplifications of Fines and Common Recoveries of the preſent or next precedent Term) are to be ſealed, unleſs they are firſt ſigned and examined by the Clerk of the Treaſury. *Mich.* 1654.

The Duty of the Clerks of the Jurats is to make and examine Copies of the ſaid Records in their reſpective Counties; and to amend Records on Receipt of Orders for that Purpoſe; to write and examine the Jurats of the Records of *Niſi Prius* in the ſaid Court, and to exemplify Verdicts, Judgments, and old Recoveries.

The Duty of the Treaſury-Keeper is to bind up the Records in diſtinct Bundles every Term, and keep them in their proper Order and Series of Time, and ſhew them when required.

Filacers.

The preſent Filacers of this Court are,

William Heſter for the Counties of *Southampton*, *Wilts*, and Town and County of *Southampton*. The Office is executed by Mr. *Coombe*, jun. in *Grange-Court* in *Cary-Street*.

Thomas Ward, in *Staple's Inn*, for the Counties of *Weſtmoreland*, *Cumberland*, *Northumberland*, and Town and County of *Newcaſtle* upon *Tyne*.

Henry Allen for the County and City of *Lincoln*. The Office is executed by Mr. *Haberfield*, at N°. 11. in *Garden-Court*, *Staple's Inn*.

William Boycot for the Counties of *Eſſex* and *Hertford*; His Deputy is Mr. *Townſend* in *Lyon's Inn.*

John Staples, at N°. 3. in *Brick Court* in the *Middle Temple*, for the Counties of *Glouceſter*, *Worceſter*, *Hereford* and *Cornwall*, and the Cities of *Glouceſter* and *Worceſter.*

Sir *Biby Lake* for the County and City of *York*, and County of the ſame City, and Town of *Kingſton* upon *Hull*, and County of the ſame Town. The Office is executed by Mr. *Wakelin*, in Mr. Prothonotary *Cook*'s Office.

Ralph Barnes, N°. 23. two Pair of Stairs *Lincoln's Inn*, for the Counties of *Surrey*, *Suſſex*, *Kent* and the City of *Canterbury.*

John Martin for the Counties of *Somerſet*, *Dorſet*, City of *Briſtol* and Town of *Pool*; His Deputy is Mr. *Bold*, at N°. 8. in *New Inn.*

Thomas Woodhouſe, in *Curſitor Street*, near *Caſtle Yard*, for the Counties of *Bedford*, *Berks*, *Buckingham* and *Oxford.*

Robert Eyre, Eſq; for *London* and *Middleſex.* The Office is executed by Mr. *Barnes*, at N°. 3. near the Chaple in *Lincoln's Inn.*

John Biſcoe for the Counties of *Salop*, *Stafford*, *Northampton* and *Rutland*, and City of *Litchfield.* The Office is executed by Mr. *Wilmer*, at N°. 9. in *Staple's Inn.*

George Green, N°. 8. *Staple's Inn*, for the County of *Norfolk*, City of *Norwich*, and County of the ſame City.

Alberte

Alberte Delande for the County of *Suffolk*; His Deputy is Mr. *Powel* in *Southampton Buildings*, near *Chancery-Lane*.

Joseph Dobbins, in *Castle Yard*, near *Holborn*, for the County of *Devon*, City of *Exeter*, and County of the same City.

William Ward, for the Counties of *Cambridge* and *Huntington*; The Office is executed at Mr. *Green*'s Chamber's, Nº. 8. in *Staple*'s *Inn*.

John Whitlocke, Nº. 11. in *Lincoln*'s *Inn Square*, for the Counties of *Derby*, *Leicester*, *Nottingham*, *Warwick*, City of *Coventry*, and Town of *Nottingham*.

Francis Gwyn, Esq; for the County of *Monmouth*. The Office is executed by Mr. *Fisher*, at Nº. 6. in *Lyon*'s *Inn*.

Their Appointment.

The several Persons above-named (except the Filacer for *Monmouth*, *vide postea*, *fol.* 27.) have been appointed, and are seised of their said Offices by Grants from the respective Chief Justices of the Court for the time being, To hold for their natural Lives as their Freehold.

And Duty.

Their Duty is to make out Mesne Process upon original Writs returnable in this Court.

They also enter Appearances, and file and enter Bails, and attend the Judges or the Court on putting in, and justifying Bail, and on Defendants surrendering in Discharge of their Bail; and also take Affidavits of Debts in order to hold the Defendants to Bail, and Affidavits of the Service

of Proceſs; and file Bills brought againſt Perſons having Privilege of Parliament, and make out the ſubſequent Proceſs thereon before Appearance.

Clerk of the Warrants, &c.

His Appointment.

The Clerk of the Warrants, Inrolments, and Eſtreats is *Edward Eyre*, Eſq; who was admitted into the ſaid Office by Sir *Robert Eyre*, Knt. late Lord Chief Juſtice of this Court.

And Duty.

He files all Warrants of Attorney upon Judgments and Iſſues; and all Warrants in Outlawries, and Writs of Covenant; and on receiving the Warrants of Attorney he ſtamps all Paper Judgments, *Pluries Capias*, and Writs of Covenant, and enters *Ne Recipiatur* againſt filing ſuch Warrants.

All the common Rolls, or Records of Judgments, and Iſſues on Trials by *Niſi Prius* of every Term, are delivered by the ſeveral Prothonotaries into this Office, the latter End of the ſubſequent Term, that the Clerk of the Warrants may inſpect the ſame, and eſtreat all Fines and Amerciaments upon Sheriffs, and others, that he ſhall find amongſt the ſaid Records, and the Rolls are delivered by him to the Clerk of the Eſſoins. Every Deed acknowledged in this Court is inrolled in this Office, and docketted in Books for the Benefit of Searches, and then delivered to the Clerk of the Eſſoins. The King's Silver Rolls, or Poſt-Fines of every Term are brought the ſubſequent Term to this Office,

Office, and are eſtreated; and the laſt Day of every Term the Clerk of the Warrants delivers the Eſtreat to the Puiſne Judge of the Court, and attends him to the Court of *Exchequer*, when the ſaid Judge delivers the Eſtreats to the Lord Chief Baron, and the Clerk makes Oath before the Court, that they are rightly eſtreated and examined. All Common Recoveries are brought to this Office from the Prothonotaries, and are docketted for the Benefit of Searches. There is a Roll alſo kept in this Office of the Names of all Perſons that are admitted Attornies of this Court, with an Account by what Judge each Attorney was admitted, and at what Time and Place, and the Place of his Abode. This Roll is wrote over every *Michaelmas* Term, in order to keep an Account of all Forejudgers againſt Attornies that are ſued for Debts, or otherwiſe, and of their being reſtored again to their Privilege by Rule of Court, or Judge's Order. And all Perſons have Recourſe to the Roll without Fee or Reward. He alſo ſtamps Attachments and Writs of Privilege for Attornies. The Clerk of the Warrants is alſo one of the Officers appointed by the Statute for the public Regiſtring of Deeds, *&c.* in the County of *Middleſex*.

Clerk of the Eſſoins.

His Appointment.

The Office of Clerk of the Eſſoins is in the Appointment of the Lord Chief Juſtice, and has uſually been granted for

Life. The preſent Clerk is Mr. *Thomas Clendon.*

Eſſoins are entered in this Office in all real Actions, and other Actions, wherein, by the Practice of the Court, Eſſoins lie; and in Caſe the Defendant doth not Eſſoin by the Time limited by the Rules of the Court, the Plaintiff may enter in this Office a *Ne Recipiatur* Eſſoin. And after an Eſſoin is caſt by the Defendant, it is the Plaintiff's Buſineſs to adjourn the Eſſoin, in Default whereof, and a Rule being given for that Purpoſe, the Defendant may ſign a *Non-Pros*; which Rule and *Non-Pros* are given in this Office on Rolls kept for that purpoſe.

In this Office all Judgments in the Court of *Common Pleas* are docketted, purſuant to Stat. 4 & 5 *W.* & *M. c.* 20. and all Rolls belonging to the ſeveral Officers of the ſaid Court, are mark'd, number'd, and delivered out to them; and when the proper Entries are made thereon they are returned into this Office, and carried by the ſaid Clerk of the Eſſoins to the Treaſury at *Weſtminſter*, and there bound up in proper Bundles. He alſo provides Parchment for the ſaid Rolls, and the Chief Juſtice of the Court for the Time being pays him for the ſame.

Clerk of the Juries.

His Appointment.

The Office of the Clerk of the Juries is in the Gift and Nomination of the *Cuſtos Brevium* for the Time being. The preſent Clerk is Mr. *Edward Bulſtrode.*

The-

The Duty of this Officer is to make out Writs of *Habeas Corpora Juratorum*, for Trials of Iſſues in *London* and *Middleſex*, and at the Aſſizes in the Country. *And Duty.*

The Return Office and Office of Inrolment of Writs for Fines and Recoveries, is in the Nomination of the three Puiſne Judges of this Court, by virtue of an Act of Parliament made in the 23d Year of the Reign of Queen *Elizabeth*. Mr. *Henry Barnes* is the preſent Clerk of this Office. *The Return Office, & Office of Inrolment of Writs for Fines & Recoveries. Officer's Appointment.*

By Statute 23 *Eliz. c.* 3. § 1. Every Writ of Covenant, and other Writ, whereon any Fine ſhall be levied, the Return thereof, the *Dedimus Poteſtatem* for acknowledging ſuch Fine, the Return thereof, the Concord, Note, and Foot of every ſuch Fine, the Proclamation, and King's Silver; and every original Writ of Entry in the *Poſt*, or other Writ whereon any common Recovery ſhall be ſuffered, or paſſed, the Writs of Summons *ad Warranizandum*, every Warrant of Attorney to be had, as well of every Demandant and Tenant, as Vouchee, that ſhall be extant, and being, may, upon Requeſt of any Perſon, be inrolled, and the Inrolment ſhall be of as good Force in Law, for ſo much as ſhall be inrolled, as the ſame being extant ought to be. *His Duty as Clerk of the Inrolment Office.*

§ 6. There ſhall be an Office for the Inrolment aforeſaid, which ſhall be an Office for ever, called *the Office of Inrolment of Writs for Fines and Recoveries*; and the Juſtices of

the *Common Pleas* (other than the Chief Juſtice) ſhall have the Care and Charge of the Inrolments aforeſaid, and ſhall enjoy the ſaid Office, and the Diſpoſition thereof, and carefully ſee to the Execution thereof, and in Conſideration of their Charges, Pains, *&c.* ſhall have the Sums following, *viz.* For the Inrolment and Examination of every Fine, and the Parts thereof, 6 *s.* 8 *d.* For the Inrolment of the ſeveral Parts of a Recovery, and Examination thereof, 6 *s.* 8 *d.* For the Exemplification of the Inrolment of a Fine 5 *s.* For the Exemplification and Return of every Writ of Entry, Summons *ad Warrantizandum*, and Warrants, 5 *s.* For the Search of the Rolls for one Year 4 *d.* And for the Copy of one Sheet of Paper, containing fourteen Lines, 4 *d.*

As Clerk of the Return Office.

Mr. *Barnes* returns all Writs of Covenant, Entry, Summons, and Seiſin, in the Names of the Sheriffs of the ſeveral Counties, Cities, and Vills in *England*; and makes regular Entries in Books, provided at his own Charge for that Purpoſe, of the Counties, Cities, Vills, Parties Names, and Places where the Premiſſes lay which are contained in ſuch Writs; and alſo the ſeveral Returns of all ſuch Writs, except Writs of Covenant, together with the Names of the Attornies concerned in proſecuting the ſame, according to the antient Method uſed in the ſaid Office.

But

But the applying for Inrolments and Exemplications in this Office hath been diſuſed many Years.

The Clerk of the King's Silver, is *William Daw*, Eſq; who was admitted into this Office by Sir *Peter King*, late Lord Chief Juſtice of this Court, on the Surrender of *Henry Ludlow*, Eſq; *Clerk of the King's Silver. His Appointment.*

This Officer claims it to be his Duty, to inſpect and ſee that all Fines paſſed in his Office have regularly paſſed through the ſeveral Offices, conformable to the Uſage and Cuſtom of the Court; to enter the Whole of all Fines, together with the Poſt-Fine paid thereon, into Books which remain in the Office as Records, for the Benefit of ſuch as have Occaſion to ſearch for Fines; and alſo to indorſe the Poſt-Fines on the Writs of Covenant, and ingroſs the Entries of all Fines on Record, with the Poſt-Fines thereof; which Records are eſtreated into the Court of *Exchequer*, in order to collect the Poſt-Fines. He is alſo to ſtop all ſuch Fines, againſt the paſſing of which Caveats are entered, and file ſuch Caveats, with all Rules of Courts, Judges Orders, and Affidavits of the Cogniſors being alive, where Captions have been taken above twelve Months before the Fines are brought to his Office. *And Duty.*

All Caveats, and Orders for ſtopping any Fines, ſhall be renewed every Term, and Copies thereof left with the Clerk of the King's Silver, for which he is to de-

mand only his antient Fee of 3 *s.* 4 *d.* the Term. And in Default thereof all Caveats that ſhall not be ſo renewed ſhall loſe their Force and Effect. *Paſch.* 29 *Car.* 2.

Where a Raſure in the Day or Year ſhall appear in the Caption of a Fine, it ſhall not paſs this Office without an *Allocatur* from a Judge. *Paſch.* 9 *Annæ.*

Chirographer. His Appointment.

The Office of Chirographer was by Letters Patent granted by his preſent Majeſty to Mr. *John Lightfoot* for Life, under whom Mr. *Joſeph Biſcoe* is appointed Secondary to officiate in the ſaid Office. There is a Regiſter and Record Keeper belonging to the ſaid Office, and the Chirographer appoints certain Under-Clerks, for the ſeveral Counties in *England.*

And Duty.

The Chirographer draws up, and makes out, from all Parts of the Fine, the final Concord, properly called the Fine itſelf, and ingroſſes a Record thereof, called the Chirograph, or Foot of the Fine; and one other Record thereof, called the Note of the Fine; and from the ſaid Chirograph, or Foot of the Fine, the Chirographer's Clerks ingroſs two Indentures, one whereof is intended for the Conuſee, and the other for the Conuſor, each of which Records and Indentures contain the Whole of the Fine, and are both examined, with all the Parts of the Fine, by the Chirographer's Secondary; and the Parts of the Fine,

Fine, and alſo the Records, are openly read and proclaimed in Court the ſame Term the Fine is brought into the Chirographer's Office, and alſo in the three following Terms, the Chirographer enters every Fine in a public Book, and upon Rolls of Parchment which are hung up in the Court of *Common Pleas* on the firſt Day of the next Term, after the Fine is brought into the ſaid Office, and which continue hung up in the Court during the whole Term, for every Perſon's Inſpection. The ſame Fines are alſo entered in another Book kept by the Chirographer's Regiſter, for public Inſpection, and after Proclamation of ſuch Fines he ingroſſes the four Proclamations on each Chirograph, and delivers the ſame with the *Dedimus* and Concord of the Fine to the *Cuſtos Brevium*, to be filed by him; and files the Writ of Covenant, and the other Records of the Fine in his own Office.

Exigenter.

The Office of Exigenter is executed by Mr. *Hutchinſon Turk*, but under what Appointment I have not been able to learn.

And Duty.

It is his Duty to make Exigents and Proclamations upon *Pluries Capias's*, in order to proceed to the Outlawry.

Clerk of the Superſedeas to the Exigent.

His Appointment.

The Office of Clerk of the *Superſedeas* to the Exigent is executed by Mr. *Robert Morris*, who was admitted into this Office by Grant or Deputation from his Father

Mr. *Henry Morris*, to hold to him and his Heirs for ever.

And Duty. It is his Buſineſs to ſign all Writs of *Superſedeas* to *Exigents quia improvide*, &c. in the ſaid Court, to prevent a Perſon's being Outlawed or Waived, againſt whom an Exigent has iſſued.

Clerk of the Outlawries. *His Appointment.* The Office of Clerk of the Outlawries is incident to the Office of His Majeſty's Attorney General, and always executed by ſome Perſon appointed by the Attorney General for the Time being. The preſent Clerk of the Outlawry is *Robert Salkeld*, Eſq;

And Duty. It is the Duty of this Officer to make out all Writs of *Capias Utlegatum*, Sequeſtration of Eccleſiaſtical Benefices in all perſonal Actions in the ſaid Court, after the Return of the Exigent, a ſhort Note whereof is entered in a Book kept for that Purpoſe, expreſſing the Plaintiff's and Defendant's Names, and the Defendant's Addition, with the Cauſe of Action and Return. And therein are likewiſe made Entries of all Reverſals of Outlawries, and the Time thereof, in which Books all Perſons may ſearch for Outlawries, and ſee which are in force or reverſed, and have Certificates thereof, in order to diſcharge a Seizure of Lands made by Virtue thereof; or ſatisfy any Court or Perſon touching the ſame, and may have Copies of the *Præcipe* of any Outlawry, to plead to, and reverſe the ſame. Inquiſitions taken

taken on ſpecial Writs of *Utlegatum* are tranſmitted into this Office, and are here exemplified upon Rolls ſigned by the Clerk of the Outlawries, and then carried into the Office of the King's Remembrancer of the Court of *Exchequer*, and there filed of Record, and the Inquiſitions themſelves and Writs of Exigent are filed with the *Cuſtos Brevium*.

Prothonotary, &c. for Monmouth.

The Offices of Prothonotary, Secondary, Clerk of the Judgments, Clerk of the Dockets, Exigenter, Clerk of the Juries, Filacer and Clerk of the Reverſals for the County of *Monmouth*, were by His late Majeſty King *William* the Third, by Letters Patent under the Great Seal, granted to *Francis Gwynn*, Eſq; who executes the ſame by Mr. *Richard Fiſher* his Deputy.

His Appointment.

And Duty.

He does the ſame Duty as the like Officers in this Court do for the reſt of the Counties in *England*.

Seal Office.

His Appointment.

And Duty.

The moſt Noble *William* Duke of *Cleveland* is ſeiſed in Fee Tail of this Office, and claimeth the Receipt of the Revenue ariſing for the Sealing of Writs, Exemplifications, and other Things whatſoever ſealed with the Seal of this Court. Mr. *John Cartwright* is his Grace's Deputy, to take Care of the ſaid Office, and receive the Profits thereof; and *John Shepherd* is appointed Chaff-Wax, and Sealer of the Writs of this Court.

The

Clerk of the Errors.

His Appointment.

The Office of Clerk of the Errors is in the Nomination of the Chief Juſtice of the Court for the Time being, and has been uſually granted by verbal Appointment to hold during the Pleaſure of the Chief Juſtice. Mr. *George Brewer* is Clerk of the Errors to the Right Honourable the preſent Lord Chief Juſtice.

And Duty.

The Clerk of the Errors, as Deputy or Clerk to the Lord Chief Juſtice, has the Allowance and Receipt of all Writs of Error brought upon Judgments given by this Court, and gives Certificates thereof, and marks the Judgment Roll, that a Writ of Error is allowed, and makes out Writs of *Superſedeas* when required, and enters and inrols Recognizances of Bail taken on Writs of Error, and makes out Writs of *Scire facias* thereon, and gives Rules for putting in, and juſtifying Bails, and gives Certificates of the Neglects thereof; and alſo gives Rules for Plaintiffs in Error to certify the Records, and makes Tranſcripts of the Records and Judgments, and tranſmits the ſame into the Court of *King's Bench*, and enters *Mittiturs* on the Rolls, importing that ſuch Records are removed into the *King's Bench*, and ſigns, and enters *Non-Proſſes* for Defaults of Plaintiffs in Error, certifying their Records. He hath alſo the Allowance and Return of all *Certiorari's* directed to the Lord Chief Juſtice, for certifying Records from this Court into any other.

The

The Judges Clerks are verbally appointed by their reſpective Judges, to continue during Pleaſure. *Judges Clerks.*

The Duty of theſe Clerks is to ingroſs Bail-Pieces on Writs of *Habeas Corpus*, and indorſe Commitments on the Back of the Return, and to draw up Surrenders of Perſons ſurrendering themſelves in Diſcharge of their Bail, and to ingroſs Bail-Pieces on Writs of *Certiorari*, to enter all ſuch Bail-pieces, as likewiſe to enter the Commitments and Surrenders in Books kept for that Purpoſe (which Books Perſons are at liberty to inſpect without Fee or Reward.) To take Recognizances of Bail acknowledged before their reſpective Judges; to read over to the Parties the Contents of all Fines and Warrants of Attorney, for ſuffering Common Recoveries, and Admiſſions of Infants to ſue or defend by Prochien Amy, or Guardian, and to write the Captions thereon, to ingroſs the Returns of Writs of *Dedimus Poteſtatem* directed to their reſpective Judges; to write the *Allocatur* of a Fine taken before Commiſſioners upon Oath of the due Caption thereof, and to write the Captions of Deeds acknowledged in or out of Court to be inrolled, and to adminiſter the Oaths to Perſons making Affidavits, or Bail juſtifying, and to draw up Summonſes and Orders made by their reſpective Judges. *And Duty.*

The Clerks to the Lord Chief Juſtice make out Commiſſions for taking Affida-

vits

vits and Special Bails, and file the Approbations ſigned by the Puiſne Judges, in order for ſuch Commiſſions, and enter the Names of the Commiſſioners ſo appointed in a Book kept for that Purpoſe.

Aſſociate at Niſi Prius *in* London *and* Middleſex.

The Office of Aſſociate at *Niſi Prius* in *London* and *Middleſex* is in the Appointment of the Lord Chief Juſtice, and has been generally granted by Parol, to hold during Pleaſure only. The preſent Aſſociate is Mr. *Thomas Lloyd.*

His Appointment.

And Duty.

The Duty of this Officer is to wait on the Lord Chief Juſtice, when he appoints the Days of Sittings at *Niſi Prius*, and to make Copies thereof, which are ſtuck up in the Prothonotaries Offices, and in *Weſtminſter Hall*, to attend the Court during the Sittings, and draw out of the Box the Names of the Jurors, and record their Appearances and Defaults, and return the ſame. To read the Record, and all written Evidence, and to take down the Minutes of Facts, and enter the Records in a Book; record Verdicts, return *Poſteas*, and draw up Orders of the Court of *Niſi Prius*, and make Copies for each ſide, to attend with the Jury to take a private Verdict, and draw up and enter the ſame on the *Poſtea*, and make out Copies thereof.

Marſhal at Niſi Prius *in* London *and* Middleſex.

His Appointment.

The Office of Marſhal at *Niſi Prius* in *London* and *Middleſex* is alſo in the Nomination of the Lord Chief Juſtice, and has

been time immemorial granted by parol Appointment, to hold during the Pleaſure of the Lord Chief Juſtice. The preſent Marſhal is Mr. *William Thory.*

And Duty. This Officer is to attend the Lord Chief Juſtice of this Court, at all ſuch Times as his Lordſhip ſits to try Iſſues depending in this Court, by Writ of *Niſi Prius*, either in the County of *Middleſex* or City of *London*. He enters the Names of all Cauſes ſet down to be tried for the ſaid City and County, in a Book kept and provided by him for that Purpoſe, which he carries down with him every Day in Term-time, to *Weſtminſter*, that all Attornies may have Recourſe to it to enter their Cauſes, to inſpect and ſee what Cauſes are entered, and at proper Times to enter *Ne Recipiatur*; and in the Afternoon this Book is kept at the Lord Chief Juſtice's Chambers for the ſame Purpoſe. During the Time appointed for Trials in the ſaid Cauſes he perſonally attends the Court during the whole Time of their ſitting, to receive the Records and Writs, and mark them. The Marſhal firſt calls the Name of the Cauſe, and then delivers up the Record to the Lord Chief Juſtice, and ſits under him, to be ready, upon all Occaſions, to receive his Commands, to receive and withdraw Records and Writs, and to mark any that are left untried, as *Remanets* to be tried at the next Sitting.

The

Cryer at Niſi Prius *in* London *and* Middleſex.

The Office of Cryer at *Niſi Prius* in *London* and *Middleſex* is alſo in the Gift of the Lord Chief Juſtice for the Time being, and has been uſually granted by parol Appointment, to hold during Pleaſure. Mr. —— *Parſons* is Cryer to the preſent Lord Chief Juſtice.

His Appoint ment.

And Duty.

His Duty is to call the Jurors, and ſwear them, and all Witneſſes produced on ſuch Trials.

Chief Proclamator.

His Appointment.

Heneage Walker, Eſq; Hereditary Proclamator of this Court, granted to *John Walker*, Eſq; the Office of Mareſcal Proclamator, and Barrier of this Court, with all Fees, *&c.* to hold to him and his Heirs for ever. There are four Perſons who act as Cryers of the Court, one of which is alſo Court-Keeper, and another Porter of the Court: Which Cryers, Court-Keeper, and Porter, are Deputies to the Chief Proclamator.

And Duty.

The Duty of the Proclamator and Barrier is by himſelf, or Deputies, to attend the Court of *Common Pleas* at *Weſtminſter*, and make Proclamations, *&c.*

The four Cryers.

Their Appointment.

The Cryers are appointed by Deputation from the Chief Proclamator.

And Duty.

Their Duty is to attend the Court, to adminiſter the Oaths to Juries, Witneſſes, Bails, and Perſons making Affidavits; to hand Rules, Affidavits, *&c.* from the Serjeants to the proper Officers, to bring Records

cords into Court as they are wanted, to call Attornies on Bills being filed againſt them, to take Recoveries from the Bar, and get them entered in the proper Prothonotaries Offices to which they belong, proclaim the Eſſoins on the Return-Days, make proper Adjournments, *&c.*

Court Keeper. His Appointment.

The Court-Keeper is appointed by the Chief Proclamator.

And Duty.

His Duty is to take Care of the Court, and that the Tapeſtry and Cuſhions be kept clean, the Court waſhed, matted and cleaned, and to take Care of the Acts of Parliament, and other Books made uſe of in Court.

Porter of the Court. His Appointment.

The Porter of the Court holds his Place by the Appointment of the Chief Proclamator.

And Duty.

His Duty is to attend the Judges in Court, hang out the Fines every Day, take Care of them; and to do other Buſineſs as Occaſion requires.

Warden of the Fleet. His Appointment.

The Warden of the *Fleet* Priſon is *Joſeph Eyles*, Eſq; appointed by Letters Patent to hold during Pleaſure; His preſent Majeſty being, by an Act of Parliament made in the ſecond Year of his Reign, impowered, during the Life of *Thomas Bambridge*, late Warden, to grant the ſaid Office to ſuch Perſons as his Majeſty ſhall think fit.

And Duty. His Duty is to receive, and have the Cuſtody of all Priſoners committed by this Court to the *Fleet* Priſon.

Clerk of the Papers and Rules of the Fleet Priſon. *His Appointment.* The preſent Clerk of the Papers and Rules of the *Fleet* Priſon is Mr. *John Cotton*, who holds his Place by Grant from the ſaid *Thomas Bambridge*, and *Doughall Cuthbert* (who is appointed Warden after the Death of the ſaid *Thomas Bambridge*) during his Life, if the ſaid *Thomas Bambridge* and *Doughall Cuthbert* ſhall ſo long live.

And Duty. It is his Buſineſs to receive and enter, in Books kept for that Purpoſe, the Commitments of Priſoners committed to the ſaid Priſon by this Court, to enter Declarations delivered to the Turnkey of the Priſon againſt Priſoners, and to enter and file the Diſcharge of Priſoners, and to give Certificates thereof, and return Writs of *Habeas Corpus*, and other Writs directed to the Warden, and enter the ſame in a Book kept for that Purpoſe, and alſo to give Certificates of Charges againſt Priſoners, and Certificates of Day-Rules granted to Priſoners by the Court.

Tipſtaffs. Their Appointment. There are two Tipſtaffs attendant on this Court who are admitted by Deputation from the Warden of the *Fleet*.

And Duty. They attend the Judges whilſt ſitting in Court, and in the Afternoon at their Lordſhips Chambers, and out of Term they attend there Morning and Afternoon. One of them alſo attends the Chief Juſtice

ſtice at the Sittings on *Niſi Prius* at *Weſtminſter* and in *London*, and on the Circuits. Their Duty is to receive all Priſoners committed in Court, or at the Judge's Chambers, and from thence to carry them to the *Fleet* Priſon, and deliver them to the Turnkey there; and alſo to bring up Priſoners to the Court, or before a Judge, on a *Habeas Corpus*, or Rule of Court for that Purpoſe.

Attornies of the Court.

No one to act as an Attorney, unleſs ſerved five Years Clerkſhip.

BY the Statute of the ſecond of *Geo.* 2. *c.* 23. no Perſon ſhall be admitted to act as an Attorney, ſue out any Proceſs, or defend any Action in this Court, unleſs he ſhall have been bound by Contract in writing to ſerve as a Clerk for five Years to an Attorney duly admitted, as by the Statute is directed, and for the ſaid Term of five Years ſhall have continued in ſuch Service, and then be examined, ſworn, admitted and inrolled.

If his Maſter ſhall die, or the Contract be vacated, before the five Years are expired, then to ſerve the Remainder of the five Years with another Attorney.

If any Attorney, with whom any Perſon ſhall be bound by Contract in writing to ſerve as aforeſaid, ſhall die before the Expiration of ſuch five Years; or if ſuch Contract ſhall by mutual Conſent be vacated, or ſuch Clerk be legally diſcharged by Rule or Order of Court before the Expiration of ſuch five Years, then if ſuch Clerk ſhall by Contract in Writing ſerve as a Clerk to ſome other Attorney, admitted as aforeſaid, during the Remainder

of the ſaid five Years, ſuch Service ſhall be as effectual as if he had ſerved five Years to the Perſon to whom he was originally bound. *Same Stat.*

Judges to examine his Fitneſs and Capacity before Admiſſion.

The Judges, before they admit ſuch Perſon, are to inquire touching his Fitneſs and Capacity, and if thereby ſatisfied, and not otherwiſe, are to adminiſter to him, in open Court, the Oath after-mentioned, and cauſe him to be admitted an Attorney, and his Name to be inrolled, without Fee or Reward, except 1 *s.* for adminiſtring the Oath. *Same Stat.*

The Oath.

I *A. B.* do ſwear, That I will truly and honeſtly demean myſelf in the Practice of an Attorney, according to the beſt of my Knowledge and Ability.

So help me God.

A Quaker on taking his ſolemn Affirmation, may be admitted and inrolled as an Attorney.

Any Perſon being one of the People called Quakers, having ſerved a Clerkſhip with an Attorney or Solicitor, and being qualified as by Statute 2 *Geo.* 2. is required, may, on taking his ſolemn Affirmation inſtead of the Oath by the ſaid Act directed, before ſuch Judges, and others who are to adminiſter the ſaid Affirmation, be admitted and inrolled as an Attorney or Solicitor, as if he had taken the ſaid Oath. *Stat.* 12 *Geo.* 2.

Attornies to be inrolled.

The Clerk of the Warrants of the *Common Pleas* is, without Fee or Reward, to inrol the Name of every Perſon who ſhall be admitted an Attorney of this Court, pur-

purſuant to this Act, and the Time when admitted, in an alphabetical Order, in Rolls or Books to be provided for that Purpoſe, to which all Perſons ſhall have Recourſe without Fee or Reward. *Stat.* 2 *Geo.* 2.

No Attorney to have more than two Clerks at one time.

No Attorney ſhall have more than two Clerks at one and the ſame Time, who ſhall be bound by Contract in Writing. *Same Stat.*

Prothonotaries may have three Clerks.

The Prothonotaries of this Court may have three Clerks, and at one and the ſame Time, and no more; and ſuch Clerks having ſerved five Years may be admitted, &c. in the ſame Manner as any Perſon may, who ſhall have ſerved a Clerkſhip to a ſworn Attorney for five Years. *Same Stat.*

Attorney, with Conſent of Attorney of another Court, may practice in ſuch Court.

Any Perſon ſworn, admitted, and inrolled an Attorney of this Court, with Conſent in writing, and in the Name of any Attorney of any other Court of Record at *Weſtminſter*, &c. may ſue out any Writ, or commence or defend any Action in ſuch Court, notwithſtanding ſuch Perſon be not ſworn or admitted an Attorney in ſuch Court. *Same Stat.*

Sworn Attorney permitting thoſe that are not to act in his Name, diſabled to practice.

If any ſworn Attorney of this Court ſhall knowingly and willingly permit or ſuffer any other Perſon to ſue out any Writ, or commence or defend any Action, in his Name, not being a ſworn Attorney or a ſworn Solicitor in *Chancery*, &c. and ſhall be thereof convicted, he ſhall, from the Time of ſuch Conviction, be diſabled to practice, and his Admittance be void. *Same Stat.*

Sworn Attorney may be admitted a Solicitor.

A ſworn Attorney of this Court may be ſworn, admitted and inrolled a Solicitor in all or any of the Courts of Equity without any Fee for the Oath, or any Stamp, if the Maſter of the Rolls, *&c.* ſhall, on examining, be ſatisfied that ſuch Attorney is duly qualified to be ſo admitted. *Same Stat.*

No Attorney to commence any Action for Fees, &c. until a Month after a Bill delivered and ſigned.

No Attorney of this Court ſhall commence any Action for Recovery of any Fees, Charges, or Diſburſements, until one Month after he ſhall have delivered to the Party to be charged therewith, or left for him at his Dwelling-Houſe, or laſt Place of Abode, a Bill of ſuch Fees, Charges and Diſburſements, in a common legible Hand, and in the *Engliſh* Tongue, (except Law Terms, and the Names of Writs) and in Words at length (except Times and Sums) ſubſcribed with the proper Hand of ſuch Attorney (ſince by *Stat.* 12 *Geo.* 2. a Bill may be wrote with ſuch Abbreviations as are commonly uſed in the *Engliſh* Language); and upon Application of the Party chargeable by ſuch Bill, or any other in that Behalf authoriſed, unto any Judge of the Court, *&c.* where the Buſineſs, or the greateſt Part thereof, in Amount or Value was tranſacted; and upon Submiſſion of the Party, or other Perſon authoriſed as aforeſaid, to pay the Whole, that upon Taxation ſhall appear due to ſuch Attorney, the Judge, *&c.* is required and impowered to refer the Bill, and the Whole of ſuch Attorney's De-

And on Application of the Party chargeable by ſuch Bill.

And Submiſſion to pay what ſhall appear due on Taxation.

The Bill to be referr'd to be taxed.

Demands thereupon (although no Action be depending touching the ſame) to be taxed, without any Money being brought into Court. And if the Attorney having due Notice ſhall refuſe to attend ſuch Taxation, the Officer may proceed *ex parte* (pending which Reference no Action ſhall be brought); and upon ſuch Taxation the Party ſhall forthwith pay to the Attorney the Whole that ſhall be found due, and in Default be liable to an Attachment or Proceſs of Contempt, or other Proceeding at the Election of the Attorney. And if upon ſuch Taxation it ſhall be found, that ſuch Attorney has been overpaid, then the Attorney ſhall forthwith pay to the Party all ſuch Money as the Officer ſhall certify to have been ſo overpaid; and in Default ſhall in like Manner be liable to an Attachment, or Proceſs of Contempt, or other Proceeding, at the Election of the Party. And the Courts are to award Coſts of Taxation according to the Event thereof, (*viz.*) if the Bill taxed be leſs by a ſixth Part, than the Bill delivered, the Attorney is to pay the Coſts; if not leſs by a ſixth Part, the Court at Diſcretion ſhall charge the Attorney or Client according to the Reaſonableneſs or Unreaſonableneſs of the Bill. *Same Stat.*

Without any Money being brought into Court.

No Action to be brought pending the Reference.

On Taxation the Party to pay the Whole that ſhall be found due.

Or liable to an Attachment or other Proceeding.

And if Attorney found to be overpaid.

Then to refund, or liable in like Manner.

Coſts of Taxation according to the Event.

If Bill taxed be leſs by a ſixth than Bill delivered, the Attorney to pay the Coſts, aliter *at the Diſcretion of the Court.*

Nothing in the ſaid Act contained ſhall extend to any Bill of Fees, Charges and Diſburſements, due from one Attorney or Solicitor to any other Attorney or Solicitor, or Clerk in Court, but every ſuch Attorney,

Not to extend to any Bill of Fees between one Attorney and another.

Solicitor or Clerk in Court, may uſe ſuch Remedy for Recovery of his Fees, Charges and Diſburſements, againſt ſuch other Attorney or Solicitor, as he might have done before the Making the ſaid Act. *Stat.* 12 *Geo.* 2.

Nor to Conveyancing Buſineſs.

An Attorney's Bill for Conveyancing Buſineſs only, is not liable to be taxed otherwiſe than by a Jury upon a *Quantum meruit*.

After an Attorney's Death his Bill not to be taxed.

After an Attorney is dead his Bill is not liable to be taxed.

Of Application to tax an Attorney's Bill.

The Court will not order that an Attorney ſhall deliver his Bill, and that the ſame ſhall be taxed, on one and the ſame Motion, they being diſtinct Matters, and the latter Part may prove fruitleſs: the Bill may be reaſonable, and no Occaſion to tax it; the Motion muſt be for the Attorney to deliver his Bill, and then, if there be Occaſion, the Client may move to have it taxed; but the more uſual way is to ſummons the Attorney before a Judge; and if the Judge's order be diſobeyed, to move the Court that the Order may be made a Rule of Court, and then proceed to an Attachment in caſe of further Contempt.

Any Perſon practiſing as an Attorney not being admitted forfeits 50 l.

Any Perſon in his own Name, or in the Name of any other, ſuing out any Writ, or commencing or defending any Action, in any of the Courts of Law or Equity, mentioned in the ſaid Act as Attorney or Solicitor, in Expectation of any Gain, Fee or Reward, without being admitted, ſhall

ſhall forfeit 50 *l.* to the Uſe of the Perſon who ſhall proſecute, and be made incapable to maintain any Action for any Fee, Reward or Diſburſement, on Account of proſecuting or defending any ſuch Action. *Stat.* 2 *Geo.* 2.

No Attorney being a Priſoner to commence or proſecute any Action.

No Attorney who ſhall be a Priſoner in any Gaol or Priſon, or within the Limits, Rules or Liberties of any Gaol or Priſon, ſhall, during his Confinement, in his own Name, or the Name of any other, ſue out any Writ or Proceſs, or commence or proſecute any Action or Suit, and all Proceedings in ſuch Action or Suit ſhall be void and of no effect; and ſuch Attorney ſo commencing or proſecuting any Action or Suit as aforeſaid, ſhall be ſtruck off the Roll, and be incapacitated from acting as an Attorney for the future; and any Attorney permitting and impowering any ſuch Attorney as aforeſaid, to commence or proſecute any Action or Suit in his Name, ſhall be ſtruck off the Roll, and be incapacitated from acting as an Attorney for the future. *Stat.* 12 *Geo.* 2.

Such Attorney to be ſtruck off the Roll.

As alſo any other Attorney permitting ſuch Attorney to uſe his Name.

Not to extend to Suits commenced before the Confinement of ſuch Attorney.

This not to extend to prevent any Attorney ſo confined as aforeſaid, from carrying on or tranſacting any Suit or Suits commenced before the Confinement of ſuch Attorney. *Same Stat.*

Attorney not attending, &c. to have no Privilege.

An Attorney that has not been attending Imployment in this Court by the Space of one Year, unleſs hindered by Sickneſs, ſhall not be allowed his Privilege of Attorney. *Mich.* 1654.

No

Not to be Leſſee in Ejectment or Bail.

No Attorney to be Leſſee in an Ejectment, nor Bail for a Defendant in this Court. *Mich.* 1654. *M.* 6 *Geo.* 2.

No changing Attorney without Rule or Order.

No Perſon without Rule of Court, or Order of a Judge or Prothonotary, and Notice to the adverſe Party or his Attorney, ſhall change or ſhift his Attorney; and ſuch Attorney newly coming in to take Notice at his Peril of the Rules whereunto the former Attorney was liable, had he continued. *Mich.* 1654.

And his Bill paid.

The Court will not permit an Attorney to be changed in a Cauſe, and another Attorney appointed in his ſtead, till his Bill of Fees and Diſburſements be ſettled and paid.

Attornies not to ſhift from one Prothonotary's Office to another.

No Attorney, without Leave of the Court, ſhall ſhift from the Prothonotary's Office where firſt ſworn and ſettled; and no Prothonotary ſhall ſuffer ſuch Attorney to enter any of his Cauſes in his Office contrary to this Rule. *Trin.* 21 *Car.* 2.

Attornies that have diſcontinued, are forejudged, or put out of the Roll, not to have Writ of Privilege or Attachment.

The Clerk of the Warrants to certify to the Seal Office the Names of ſuch Attornies that have diſcontinued, and are forejudged the Court, and put out of the Roll, and have not filed any Warrants of Attorney, nor continued their Names upon the Roll for above four Terms paſt; and thereupon no ſuch Perſon ſhall have a Writ of Privilege or Attachment ſealed until they have the ſaid Writ ſigned by the Clerk of the Warrants, to teſtify that their Names are on the Roll, for which no Fee is to be paid. *Trin.* 29 *Car.* 2.

And

Writ of Privilege to be ſigned by the Clerk of the Warrants.

And now the Sealer does not put the Seal to any Writ of Privilege or Attachment before it is ſigned by the Clerk of the Warrants.

Attornies to be admitted of ſome of the Inns of Court.

All Attornies of this Court ſhould be admitted of ſome Inn of Court, or *Chancery*, and take Chambers there (if they conveniently may be had) elſe Lodgings in ſome convenient Place near the ſaid Inns, and leave Notice in Writing with the Butler or Porter of ſuch Inn where their Lodgings are, except ſuch Attornies who are Inhabitants or Houſe-Keepers in *London*, *Weſtminſter*, *Southwark*, or the Suburbs thereof, and Liberty of the *Tower* of *London*, and St. *Katherines*; or are Attornies of any Courts within the ſaid Cities, Town and Liberty. *Mich.* 1654. *Trin.* 29 *Car.* 2. *Mich.* 4 *Annæ.*

Except.

Each Attorney pays 8 d. *a Term to the Clerk of the Warrants.*

Every Attorney of the Court pays to the Clerk of the Warrants 8 *d.* a Term, *viz.* 4 *d.* a Term for the Puiſne Judges (to be diſtributed in Charity) and 4 *d.* a Term for the Cryers of the Court. And when any Attorney brings a Writ of Privilege or Attachment to be ſigned, or Warrant of Attorney to be filed, he muſt pay the Arrears (if any) of his Termage.

Attorney anſwerable for his Agent.

A Country Attorney is anſwerable to his Client for his Agent.

Matters not to be tranſacted in the Country.

Where Country Attornies are concerned, Declarations, Pleas, and other Proceedings, ſhould not be delivered and carried on in the Country but by the Agents in Town.

If

Declaration. If a Rule be given to declare, and the Plaintiff's Attorney in the Country agrees that a Demand of the Declaration may be made on him in the Country, which is accordingly done, and a *Non-Pros* ſigned for want of a Declaration, the *Non-Pros* is irregular, and may be ſet aſide; for by the Practice of the Court, the Declaration ſhould have been demanded of the Agent in Town.

Plea. If the Agent of the Plaintiff's Attorney gives the Agent for the Defendant Time to plead, the Country Attorney cannot ſign Judgment till that Time be expired.

Plea. A Plea delivered in the Country is irregular, and Judgment may be ſigned.

Iſſue. If the Country Attornies agree that the Iſſue ſhall be delivered in the Country, and it is notwithſtanding tendered in Town, and not paid for by the Agent, Judgment may be ſign'd, for the Agreement is void.

Iſſue. But where the Defendant pleads by his Attorney in the Country, and the Plaintiff's Attorney accepts it there, he may tender the Iſſue in the Country, and if not paid for there, may ſign Judgment.

Notice of Trial. Notice of Trial muſt be given in Town, but a Countermand may be given in the Country.

Sheriffs.

AS they are bound to execute the Proceſs of the Court, and puniſhable by the Court for Misbehaviour in executing the

the ſame, they are generally eſteemed and look'd upon as Officers of the Court.

Every Sheriff ſhall make yearly a Deputy on Record, in the *Chancery*, *King's Bench*, *Common Pleas*, and *Exchequer*, before they ſhall return any Writs, to receive all Manner of Writs and Warrants delivered to them. *Stat.* 23 *H.* 6. *c.* 10. *Every Sheriff to make a Deputy on Record in Court.*

Every Sheriff is to make and enter on Record a Deputy to receive all Manner of Writs and Proceſs. *Mich.* 1654. *Hil.* 14, 15 and *Hil.* 15 & 16 *Car.* 2. *Trin.* 1 *Jac.* 2.

Each Deputy yearly to have his Name and Place of Reſidence in *London* or *Weſtminſter*, ſet up in the Office of the Clerk of the Warrants. *Mich.* 1654. *Deputy to have his Name and Place of Abode in* London *or* Weſtminſter *ſet up in the Office of Clerk of the Warrants.*

Sheriffs Deputies are to give their Attendance in *Weſtminſter-Hall* daily in Term-time, that they may with more Conveniency diſpatch the Duty belonging to their reſpective Offices. *Mich.* 1654. *Hil.* 14 & 15 and *Hil.* 15 & 16 *Car.* 2. *Trin.* 1 *Jac.* 2. *To give his Attendance in* Weſtminſter Hall *in Term-time.*

Sheriffs are not to deliver out any Warrants before the Writs he ſued forth and delivered to them. Nor deliver out any blank Warrants. *Mich.* 1654. *Hil.* 14 & 15 *Car.* 2. *Trin.* 1 *Jac.* 2. *Sheriffs not to deliver out Warrants before Writs delivered to them, or blank Warrants.* Stat. 43 Eliz. c. 6. 6 Geo. 1. c. 21.

No Under-Sheriff to practice as an Attorney during ſuch his Imployment. *Stat.* 1 *H.* 5. 4. *Mich.* 1654. *No Under-Sheriff to practice as an Attorney.*

The

Sheriff's Fees on Executions. The Sheriff, for ſerving any Execution upon the Body, Lands, Goods or Chattels, ſhall have 12 *d.* in the Pound where the Sum exceeds not 100 *l.* and if it does exceed, then 6 *d.* for every Pound exceeding 100 *l.* that he ſhall levy or take the Body in Execution for. *Stat.* 29 *Eliz. c.* 4.

On Writ of Poſſeſſion. On executing a Writ of *Habere facias poſſeſſionem*, the Sheriff ſhall not take above 1 *s.* in the Pound, where the Rent exceeds not 100 *l. per Annum*; and 6 *d.* in the Pound for every Pound over and above. *Stat.* 3 *Geo.* 1. *c.* 15. *ſ.* 16.

On Capias ad Satisfaciendum On executing a *Capias ad ſatisfaciendum*, the Sheriff to take Poundage only for the real Debt, on Penalty of treble Damages, and 200 *l.* The real Debt to be mark'd on the Back of the Writ. *Same Stat. ſ.* 17.

Sheriffs to indorſe Attorney's Name on Warrants. Every Sheriff, or other Officer who ſhall make out any Warrant upon any Writ, Proceſs or Execution, and ſhall not ſubſcribe or indorſe the Name of the Attorney who ſued out the ſame, ſhall forfeit the Sum of five Pounds, to be aſſeſſed as a Fine upon ſuch Sheriff or other Officer, by the Court, one Moiety to the King, the other Moiety to the Party aggrieved by ſuch Omiſſion. *Stat.* 12 *Geo.* 2.

Sheriff not returning Proceſs within 6 *Days after Service of Rule, to pay Coſts.* If any Sheriff, Under-Sheriff, or their Deputy, Bailiff, Coroner, Bailiff of any Liberty, or other Officer having the Return of Proceſs, ſhall not return the ſame within ſix Days after Service of a Rule of this Court for that Purpoſe, he ſhall be

liable to pay the Coſts occaſioned by ſuch Neglect. *Hil.* 8 *Geo.* 1.

Service of the Rule on the Under-Sheriff, or on one who really acts as Under-Sheriff, though he be not Under-Sheriff, is ſufficient to ground Attachment againſt the Sheriff. *Service on the Under-Sheriff ſufficient.*

When a new Sheriff is choſen, yet the old Sheriff continues Sheriff of the County till the new Sheriff is ſworn, and he renews a Writ of *Superſedeas*. *Old Sheriff to continue till new one ſworn.*

On the Deceaſe of any Sheriff the Under-Sheriff is to act in his Name till another be appointed. *Stat.* 3 *G.* 1. *c.* 15. *ſ.* 8. *On the Death of a Sheriff the Under-Sheriff to act till a new one appointed.*

Of the Four Terms.

THERE are four Terms in the Year, during which this Court ſits, *viz.* *Michaelmas* Term, *Hilary* Term, *Eaſter* Term and *Trinity* Term; the two firſt are called fix'd Terms, as conſtantly falling on certain fix'd Days in the Year; the two latter Terms are called moveable Terms, *Eaſter* Term being governed by *Eaſter* Day, and *Trinity* Term being governed by *Corpus Chriſti* Day, both which are moveable Feaſts. *Hilary* and *Trinity* Terms are called iſſuable Terms, for that in them Iſſues are made for Trials at the Aſſizes which reſpectively follow thoſe Terms. *The four Terms.* *Fix'd and Moveable Terms.* *Iſſuable Terms.*

Michaelmas Term begins on the twenty-third Day of *October*, if not *Sunday*, if *Sunday*, Michaelmas Term.

Sunday, on the twenty-fourth (it's Eſſoin-Day being the twentieth of *October*, the Day three Weeks after *Michaelmas* Day) and ends on the twenty-eighth Day of *November*, if it be not a *Sunday*, but if a *Sunday*, then on the Morrow following. This Term, before the Statute 16 *Car.* 1. *c.* 6. began on the ninth Day of *October*, and had eight Returns, which by that Statute are reduced to ſix.

Hilary *Term.* *Hilary* Term begins on the twenty-third Day of *January* (except it be on a *Sunday*, and then on the Morrow after) being always that Day eight Weeks on which *Michaelmas* Term ended, it's Eſſoin-Day being the twentieth of *January*, and it ends on the twelfth Day of *February* (if not *Sunday*, and then on the Morrow after) being always the ſame Day of the Week on which *Michaelmas* Term began.

Eaſter *Term.* *Eaſter* Term begins on the *Wedneſday* Fortnight after *Eaſter* Day, it's Eſſoin-Day being the *Sunday* next preceeding, but held on the *Monday*, and ends on the *Monday* next after Aſcenſion Day.

Trinity *Term.* *Trinity* Term begins on the *Friday* next after *Trinity Sunday*; and though that Day ſhould happen to be the Feaſt of St. *John* the *Baptiſt*, the Term muſt then begin, for by the *Stat.* 32 *H.* 8. *c.* 21. the full Term ſhall begin on the *Friday* next after *Corpus Chriſti* Day; the Eſſoin-Day is the *Monday* preceeding. It ends on the *Wedneſday* Fortnight after it began, except it happen on the twenty-fourth of *June*, being the

Feaſt of St. *John* the *Baptiſt*, and then it muſt be adjourned on the *Tueſday* to the *Thurſday* following. This Term was limited and ſettled as it now is, by the ſaid *Stat.* 32 *H.* 8. it having before more Returns, and a different Commencement.

The Eſſoin-Day (from *Eſſoine*, or *Exonnie*, an Excuſe, where the Defendant cannot conveniently appear) is ſaid to be the firſt Day of the Term, and on that Day one of the Judges goes down to *Weſtminſter* for the keeping Eſſoins, Profers, Returns, *&c.* But full Term begins always the fourth Day after incluſive, except in *Trinity* Term, when it begins on the fifth, by reaſon of *Corpus Chriſti* Day, which is *Dies non Juridicus*. *Eſſoin-Day.*

Michaelmas Term, which contains five Weeks and two Days, hath six Returns.

By ORIGINAL.	*By ATTACHMENT, BILL, &c.*
1. From the Day of Saint *Michael* in three Weeks.	On ( ) next after three Weeks of St. *Michael.*
2. From the Day of Saint *Michael* in one Month.	On ( ) next after one Month of St. *Michael.*
3. On the Morrow of *All Souls.*	On ( ) next after the Morrow of *All Souls.*
4. On the Morrow of Saint *Martin.*	On ( ) next after the Morrow of St. *Martin.*
5. On the Octave of Saint *Martin.*	On ( ) next after the Octave of St. *Martin.*
6. From the Day of Saint *Martin* in fifteen Days.	On ( ) next after fifteen Days of St. *Martin.*

Hilary

Hilary Term, which contains three Weeks complete, hath four Returns.

By ORIGINAL.	*By ATTACHMENT, BILL, &c.*
1. On the Octave of Saint *Hilary*.	On ( ) next after the Octave of St. *Hilary*.
2. From the Day of Saint *Hilary* in fifteen Days.	On ( ) next after fifteen Days of St. *Hilary*.
3. On the Morrow of the Purification of the Bleſſed *Mary*.	On ( ) next after the Morrow of the Purification of the Bleſſed Virgin *Mary*.
4. On the Octave of the Purification of the Bleſſed *Mary*.	On ( ) next after the Octave of the Purification of the Bleſſed Virgin *Mary*.

Easter Term, which contains three Weeks and six Days, hath five Returns.

By ORIGINAL.	*By ATTACHMENT, BILL, &c.*
1. From the Day of *Easter* in fifteen Days.	On ( ) next after fifteen Days of *Easter.*
2. From the Day of *Easter* in three Weeks.	On ( ) next after three Weeks of *Easter.*
3. From the Day of *Easter* in one Month.	On ( ) next after one Month of *Easter.*
4. From the Day of *Easter* in five Weeks.	On ( ) next after five Weeks of *Easter.*
5. On the Morrow of the Aſcenſion of our Lord.	On ( ) next after the Morrow of the Aſcenſion of our Lord.

Trinity Term, which contains twenty Days, hath four Returns.

By ORIGINAL.	*By ATTACHMENT, BILL, &c.*
1. On the Morrow of the Holy *Trinity.*	On ( ) next after the Morrow of the Holy *Trinity.*
2. On the Octave of the Holy *Trinity.*	On ( ) next after the Octave of the Holy *Trinity.*
3. From the Day of the Holy *Trinity* in fifteen Days.	On ( ) next after fifteen Days of the Holy *Trinity.*
4. From the Day of the Holy *Trinity* in three Weeks.	On ( ) next after three Weeks of the Holy *Trinity.*

Eſſoin-Days in Eaſter *and* Trinity *Terms are* Sundays, *Except.*

All the Eſſoin-Days in *Eaſter* Term except the laſt, which is *Craſtinum Aſcenſionis Domini*; and all the Eſſoin-Days in *Trinity* Term except the firſt, which is *Craſtinum Sanctæ Trinitatis*, fall on *Sundays*.

Writs grounded on Originals returnable on general Returns.

Attachments, &c. on Days certain.

All Writs iſſuing out of this Court, grounded upon original Writs out of *Chancery*, muſt be made Returnable on general Return Days, as on the Morrow of the Holy *Trinity*; but Writs of Attachment, and Writs ſubſequent thereto, and Writs grounded on Bills filed againſt Attornies, and ſuch Officers of the Court as are intitled to the Privilege of the Court, or Members of the Houſe of Commons, Writs of *Habeas Corpus*, &c. muſt be made Returnable on a Day certain, as on *Friday* next after the Morrow of the Holy *Trinity*. But Care muſt be taken that they be not made Returnable on any of the following Days, which are *Dies non Juridici*, viz. *All Saints* and *All Souls* in *Michaelmas* Term, the Feaſt of the *Purification* in *Hilary* Term, *Aſcenſion Day* in *Eaſter*, and the Feaſt of Saint *John* the *Baptiſt*, if it happen in *Trinity* Term (unleſs it be firſt Day of that Term.)

Dies non Juridici.

Fifteen Days between Teſte *and Return of original Writs and Writs ſubſequent.*

There muſt be at leaſt fifteen Days between the *Teſte* and Return of all original Writs returnable in this Court, and between the *Teſte* and Return of all ordinary Writs ſued and procured upon the ſame, except where altered by the following Acts of Parliament.

An

An Attachment of Privilege at the Suit of an Attorney muſt alſo have fifteen Days between the Teſte and Return.

And Attachments of Privilege.

All Writs and Proceſs in perſonal Actions having Day from *Tres Michaelis* until *Craſtino Animarum*, ſhall be good and effectual in the Law, notwithſtanding there be not fifteen Days between the *Quarto Die* of *Tres ſeptimanas ſancti Michaelis* and the Eſſoin-Day of *Craſtino Animarum*. Stat. 16 Car. 1. c. 6. § 8.

Where Writs having Day from Tres Mich. *to* Craſt. Animarum.

In all Actions of Debt, and other perſonal Actions, Actions of *Ejectione Firmæ* for Lands or Tenements, after Iſſue joined to be tried by a Jury, and after any Judgment had or obtained, there ſhall not need to be fifteen Days between the Teſte and Return of any Writ of *Venire facias*, *Habeas Corpora Juratorum*, or *Diſtringas Juratores*, Writ of *Fieri facias*, or Writ of *Capias ad ſatisfaciendum*, and the Want thereof ſhall not be aſſigned for Error; but not to extend to any Writ of *Capias ad ſatisfaciendum*, whereon an Exigent after Judgment is to be awarded, or to a *Capias ad ſatisfaciendum* againſt the Defendant to make the Bail liable. 2 *Stat.* 13 *Car.* 2. *c.* 2. § 6, 7.

And Writs of Ven. fac. Hab. Corp. Jur. Diſtring. Jur. Fi. fac. *and* Ca. ſa. *need not have* 15 *Days between Teſte and Return.*

Except a Ca. Sa. *to ground an Exigent, or make Bail liable.*

Of Commencing an Action.

Actions by Original. ALL Actions in this Court are either founded on Originals out of *Chancery*;

Attachment of Privilege. On Attachments of Privilege at the Suit of Attornies, or other Officers intitled to the Privilege of the Court;

Bill. On Bills filed againſt ſuch Attornies or Officers, or againſt Members of Parliament;

Habeas Corpus, &c. On Writs of *Habeas Corpus cum Cauſa*, *Certiorari*, &c. removing Cauſes out of inferior Courts of Record;

Re.fa.lo. &c. On Writs of *Recordari facias loquelam*, *Accedas ad Curiam*, or Writs of falſe Judgment, removing Cauſes out of inferior Courts not of Record.

Of Bail. In Commencing Actions in this Court, It is to be conſidered, What Cauſes of Action require Bail, and what Perſons are liable to be held to Bail.

No Bail of an Heir, nor of an Executor or Adminiſtrator, unleſs on a Devaſtavit *returned.* Bail is not required of an Heir, nor of an Executor or Adminiſtrator, unleſs on a *Devaſtavit* grounded, as I apprehend, on a Return by the Sheriff to a *Fieri facias de bonis Teſtatoris*, or a *Scire facias* Inquiry, and not on the bare Suggeſtion of the Plaintiff.

Nor on a penal Statute. In Debt on a penal Statute the Defendant is not to be held to ſpecial Bail.

Nor on a Bail-Bond or Recognizance of Bail. Neither is Bail required in Debt on a Bail-Bond, or Recognizance of Bail, for that would tend to Bail *ad infinitum*.

In

In Battery, Conſpiracy, or falſe Impriſonment, no Bail of Courſe without ſpecial Motion and Order. *Mich.* 1654.

In Battery, Conſpiracy, or falſe Impriſonment, no Bail of Courſe.

In an Action for a malicious Proſecution a Judge will not grant an Order to hold the Defendant to Bail, if the Plaintiff was acquitted upon a Defect in the Indictment, and not upon the Merits. 2 *Keb.* 796.

No Bail for a malicious Proſecution where the Plaintiff was acquitted upon a Defect in the Indictment.

In an Action for a criminal Converſation with the Plaintiff's Wife, on an Affidavit of the Fact, a Judge will grant an Order to hold the Defendant to Bail for ſuch Sum as he ſhall think reaſonable on the Circumſtances of the Caſe and Parties.

Bail by Order for criminal Converſation.

On Affidavit and Application in the Treaſury, the Judges have ordered the Defendant to be held to Bail in an Action for Meſne Profits. *Pulleyne & Ux.* v. *Richardſon. Paſ.* 1 *G.* 2. *Duncombe* v. *Motteram & al. Trin.* 2 & 3 *G.* 2.

Bail in an Action for Meſne Profits.

On an Affidavit made the Defendant was held to Bail in an Action of Treſpaſs, for entering the Plaintiff's Hop-Ground, and taking and carrying away 20,000 Hop-Poles, to the Plaintiff's Damage of 40 *l.* The Court refuſed to diſcharge the Defendant on a common Appearance, and declared, tho' it was reaſonable to have a Judge's Order in Battery, there was none in this Caſe. *Cooke & al.* v. *Sankey, Trin.* 7 & 8 *G.* 2.

Bail in Treſpaſs for entering Plaintiff's Hop-Ground, and taking away his Hop-Poles.

In Slander no Bail, except in Slander of Title, and then to be left to the Diſcretion of the Judge. *Mich.* 1654.

No Bail in Slander, except Slander of Title.

Bail

Nor in Covenant, unleſs for Payment of Money.

Bail is not generally required in Covenant, unleſs it be for Payment of Money. *Same Rule.*

Or Damages aſcertained by Affidavit.

But tho' the Covenant be not for Payment of Money, if the Plaintiff makes an Affidavit of the Sum he is damnified in by the Breach of the Covenant, the Court will not diſcharge the Defendant on a common Appearance.

Bail in Debt on a Judgment, if no Bail in the original Action; aliter *if Bail in the original Action.*

Where an Action of Debt is brought on a Judgment, if there was Bail put in to the original Action the Defendant ſhall not be held to Bail in the Action of Debt on the Judgment; but if there was no Bail in the original Action, then Bail muſt be put in to the Action of Debt on the Judgment.

The like tho' Error brought on the Judgment, and Bail be put in on the Writ of Error.

If a Writ of Error be brought on a Judgment, and Bail be put in on the Writ of Error, and pending the Writ of Error, an Action of Debt be brought on the Judgment, the Defendant in ſuch Action ſhall be held to Bail if there was no Bail in the original Action; for though it may be ſaid the Bail on the Writ of Error is a Security for the Plaintiff's Demand, yet it is to be obſerved that there may be Accidents whereby ſuch Bail will not be liable; as that the Writ may abate by the Death of the Chief Juſtice, or the like.

Priſoner diſcharged not to be held to Bail in Debt on the Judgment.

A Priſoner diſcharged by *Superſedeas* for want of Proſecution ſhall not be held to Bail in an Action of Debt brought on the Judgment obtained in the Cauſe where-

wherein he was discharged. *Hil.* 8 G. 2. *See the Rule at large* Tit. *Prisoners.*

Action against Baron and Feme, and Wife only arrested, she shall be discharged on a common Appearance. Aliter *if both arrested.*

If an Action be brought against *Baron* and *Feme*, and the Wife only be arrested, she shall be discharged on a common Appearance; for otherwise the Husband may contrive the Imprisonment of the Wife; but if both the Husband and Wife be arrested, she shall not be discharged until Bail be put in for both, for otherwise a Woman may marry a Man in Gaol and defraud her Creditors.

Attorney not to be held to Bail unless for a Contempt, &c.

No Attorney of this Court, or other Officer intitled to the Privilege of the Court, is to be held to Bail, unless it be on an Attachment for a Contempt (to which, Bail must be taken by the Court or a Judge, and not by the Sheriff) or in an Action at the Suit of an Attorney, or any other Person intitled to the Privilege of this Court; for in such Case the Plaintiff's Privilege takes away the Defendant's.

No Bail where the Cause of Action amounts not to 10 l. *or upwards.*

No Person shall be held to Bail upon any Process issuing out of this Court where the Cause of Action does not amount to the Sum of Ten Pounds or upwards; and in all Cases where the Cause of Action shall not amount to Ten Pounds or upwards, the Plaintiff shall not arrest the Body of the Defendant, but shall serve him personally with a Copy of the Process. *Stat.* 12 G. 1. *c.* 29. *s.* 1. 2. *Stat.* 5 G. 2. *c.* 27. *Stat.* 13 G. 2.

But Defendant to be served with Copy of Process.

Proceed-

Proceedings by Original in Actions not requiring Bail.

Where no Bail required, a common Clauſum fregit *to be ſued out.*

May declare thereon in any County, or for any Cauſe of Action.

If the Cauſe of Action does not require Bail, a *Præcipe* is to be made out for a common *Capias* in Treſpaſs, on which the Plaintiff may declare in any County, or for any Cauſe of Action, as the Caſe ſhall require. The Filacer makes out the *Capias*, and procures the Original from the Filacer, and returns and files it.

The Præcipe.

Præcipe *in Treſpaſs.*

Middleſex, Capias for *W. P.* againſt *J. B.* late of the Pariſh of St. *Clement Danes* in the County of *Middleſex*, Taylor, broke the *Cloſe* at *Weſtminſter.*

L. R. *Returnable on the Octave*
22 *Dec.* 1740. *of St.* Hilary.

The *Præcipe* is to be carried to the proper Filacer, who will make out the *Capias.*

The Form of the Capias.

Capias *thereon.*

GEORGE the Second, *&c.* To the Sheriffs of *London*, Greeting. We command you, that you take *J. B.* late of the Pariſh of Saint *Clement Danes* in your County, *Taylor*, if he ſhall be found in your Bailiwick,

wick, and keep him ſafely, ſo that you may have his Body before our Juſtices at *Weſtminſter* on the Octave of St. *Hilary*, to anſwer *W. P.* in a Plea, wherefore with Force and Arms he broke the *Cloſe* of the ſaid *W.* at *London*, and did other Injuries to him, to his great Damage, and againſt our Peace; and have there this Writ. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Twenty-eighth Day of *November* in the Fourteenth Year of our Reign.

Eyre.

You may put four Defendants in a Writ; but there muſt be but one Plaintiff, unleſs it be a joint Action; for this Writ you pay as follows.

To the Filacer.

	s.	*d.*	
For the Original	0	1	0
Filing —— ——	0	0	4
For the *Capias*	0	0	10
Duty —— ——	0	1	6
			0 3 8
At the Seal Office ——			0 0 7
			0 4 3

Then a Copy of the Proceſs muſt be made with an *Engliſh* Notice, ſubſcribed as

as mentioned in the two next Paragraphs, which Copy muſt be ſerved on the Defendant.

Notice to be written on the Copy of the Proceſs.

But by *Stat.* 5 *Geo.* 2. *c.* 27. *ſ.* 4. and 13 *Geo.* 2. upon every Copy of ſuch Proceſs ſhall be written a Notice of the Intent and Meaning of ſuch Service, to the Effect following, *viz.*

The Form of the Notice.

C. D. You are ſerved with this Proceſs, to the Intent that you may, by your Attorney appear in his Majeſty's Court of *Common Pleas* at the Return thereof, being the Twentieth Day of *Jan.* 1740. (as the Caſe ſhall happen to be) in order to your Defence in this Action.

The Day of the Return to be inſerted though a Sunday.

The very Day of the Return of the Proceſs muſt be inſerted, although it ſhould happen to be a *Sunday*.

5 s. *for making and ſerving the Copy.*

No more than 5 *s.* is to be taken for the Making and Serving a Copy of ſuch Proceſs, and no Fee for the Notice. *Stat.* 5 *Geo.* 2.

In Franchiſes the Proceſs to be ſerved by the proper Officer.

In particular Franchiſes and Juriſdictions the proper Officer there ſhall execute ſuch Proceſs. *Stat.* 5 *G.* 2.

But if the Proceſs be not ſerved by the proper Officer, the Court will not ſtay Proceedings; the Lord of the Liberty may bring his Action, if he thinks proper.

The Proceſs, of which a Copy is directed by the above Statutes to be ſerved on the Defendant, muſt be a *Capias*, and not an original Writ. *Capias and not Original to be ſerved.*

If the Proceſs be directed into a County Palatine, the Defendant is to be ſerved with a Copy of ſuch Proceſs, and not with a Copy of the Mandate thereupon from the Biſhop or Chancellor to the Sheriff of the County. *Of ſerving Proceſs in a County Palatine.*

When the Defendant is ſerved with a Copy of a Writ, there muſt be an *Engliſh* Notice ſubſcribed as above directed, tho' the Cauſe of Action ſhould be above Ten Pounds, or the Writ ſhould be a ſpecial *Capias*. *Where Copy ſerved, it muſt be with Notice, tho' Action for above* 10l. *or Writ ſpecial.*

If the Proceſs be againſt *Baron* and *Feme*, Service on the Husband is ſufficient for both; and if the Husband does not appear for himſelf and his Wife, the Plaintiff may enter an Appearance for both. *Proceſs againſt Baron and Feme, Service on the Huſband ſufficient.*

But in a joint Action againſt Two or more Defendants, each Defendant muſt be ſerved with a Copy of the Proceſs. *In a joint Action each Def. muſt be ſerved.*

Proceſs ſerved on the Day of the Return at ſix in the Evening, after the Riſing of the Court, has been held good, for there is no Fraction of a Day. *Service on the Day of the Return after the Riſing of the Court good.*

If there be any Irregularity in the Service of the Proceſs, or in the Notice ſubſcribed to the Proceſs, the Defendant muſt apply to the Court before interlocutory Judgment is ſigned. *Irregularity in Proceſs to be complained of before interlocutory Judgment.*

If

And Proceſs to be annexed to Affidavit. If the Defendant complains of any Irregularity in the Proceſs, or Notice ſubſcribed, he muſt annex the Copy to his Affidavit.

Proceedings by Original in Actions requiring Bail.

If Bail required, Affidavit to be made of Cauſe of Action. If the Cauſe of Action amounts to Ten Pounds, or upwards, Affidavit muſt be made and filed of the Cauſe of Action. *Stat.* 12 *Geo.* 1. *c.* 29. 5 *Geo.* 2. *c.* 27. 13 *Geo.* 2.

The Form of an Affidavit of a Debt in Order to hold the Defendant to Bail.

Common Pleas.

The Form of the Affidavit. *H. H.* of, &c. maketh Oath, that *G. W.* late of, &c. is juſtly and truly indebted to the Deponent in the Sum of 200 *l.* on one Bond or Obligation under the Hand and Seal of the ſaid *G. W.* bearing Date, &c. whereby the ſaid *G. W.* is bound to this Deponent in the penal Sum of 400 *l.* conditioned for the Payment of 200 *l.* and Intereſt to this Deponent, on the Day of laſt paſt.

Sworn, &c.

Before whom the Affidavit to be made. This Affidavit may be made before any Judge of this Court, or Commiſſioner authoriſed to take Affidavits in this Court, or

or before the Officer who iſſues the Writ or his Deputy; and for which Affidavit 1 *s.* above the Stamp-Duties ſhall be paid, and no more. 12 *Geo.* 1. 5 *Geo.* 2.

By the general Rule and Practice of this Court, Affidavits taken before Attornies (as Commiſſioners) in Cauſes, wherein they were concerned for the Parties in whoſe Behalf ſuch Affidavits were made, have been deemed inſufficient.

Affidavit to hold to Bail, or of Service of Proceſs, may be made before Plaintiff's Attorney, if a Commiſſioner.

But an Affidavit made in order to hold the Defendant to Bail before Proceſs ſued out, or an Affidavit of Service of Proceſs where only a common Appearance is required, may be ſworn before the Plaintiff's Attorney, being a Commiſſioner, and may be made uſe of for the Purpoſe aforeſaid. *Paſ.* 13 *Geo.* 2.

Matter of Bail examinable by the Court.

Notwithſtanding the Plaintiff makes an Affidavit of his Debt, or other Cauſe of Action, yet the Matter of Bail is examinable by the Court.

The next Thing is to make out a *Præcipe* for the Filacer, which you muſt ſuit to the Nature of your Action, according to the following Precedents.

A Præcipe *in Debt.*

Middleſex. Command *G. W.* late of *Weſtminſter* in your County, *Eſq*; * otherwiſe called *G. W.* of *Weſtminſter* in the County of *Middleſex*, Eſq; that he render to *H. H.* 400 *l.* which he owes him, and unjuſtly detains.

Ret' in 3 *Weeks of St.* Mich.

J. B. [*the Attorney*]
19 *Aug.* 1740.
Affidavit for 200 *l.*

The Capias *thereon.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *Middleſex*, Greeting. We command you, that you take *G. W.* late of *Weſtminſter* in your County, Eſq; * otherwiſe called, (*&c.*) if he ſhall be found in your Bailiwick, and keep him ſafely, ſo that you may have his Body before our Juſtices at *Weſtminſter*,

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Alias dict' *not neceſſary.*

* The *Alias dict'* is uſed where the Debt ariſes by Specialty, but it is ſaid not to be neceſſary to be inſerted, and that it may be and is better left out, and was ſo adjudged in this Court in Lord Chief Juſtice *Eyre*'s Time in an Action upon a Bail-Bond, *Darby* againſt *Minſhull.*

On a Latin *Bond the* Alias dict', *if uſed, muſt be in* Latin.

If the Action be in Debt on a Bond, and the Obligation is in *Latin*, the *Alias dict'* (if inſerted) muſt be alſo in *Latin*, as thus, Command *John Doe* late of *London*, Gentleman, otherwiſe called *Johannem Doe de London, Generoſum.*

from

from the Day of St. *Michael* in three Weeks, to anſwer *H. H.* of a Plea, that he render to the ſaid *H. H.* four Hundred Pounds which he owes him, and unjuſtly detains, as it is ſaid; and have there this Writ. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the 25th Day of *June* in the Fourteenth Year of our Reign.

Eyre.

Præcipe *in Debt againſt two Defendants*

Middleſex. Command *W. C.* late of the Pariſh of St. *Clement Danes* in your County, Tallow Chandler, that he render to *W. D.* 30 *l.* which he owes him, and unjuſtly detains. Command *C. M.* late of, *&c.* that he render to the ſaid *W. D.* 56 *l.* which he owes him, and unjuſtly detains.

Officina Brevium 22.

Ret. &c.

J. B.
10 *Jan.* 1746.

Affidavit againſt { *W. C.* for 30 *l.* / *C. M.* for 56 *l.*

Fines payable to the King.

On all *Præcipes Quod reddat*, if the Sum exceeds Forty Pounds, a Fine is payable to the King in the following Proportions.

	l.	*s.*	*d.*
From 40 Pounds to 100 Marks	0	6	8
From 100 Marks to 100 Pounds	0	10	0
From 100 Pounds to 200 Marks	0	13	4
From 133. 6. 8. to 166. 13. 4.	0	16	0
From 166. 13. 4. to 200 Pounds	1	0	0

	l.	*s.*	*d.*
And so consequently for every 100 Marks more ——	0	6	8
And for every 100 Pounds more	0	10	0

Wherefore if you would avoid the Fine draw out a *Præcipe* for a *Capias* in Trespass with an *Acetiam*, in Debt in this Manner.

Præcipe *for a* Capias *in Trespass with an* Acetiam *in Debt.*

Middlesex. Capias for *T. D.* against *A. S.* late of the Parish of St. *Martin in the Fields* in your County, Surgeon, broke the *Close* at *Westminster*; and also in a certain Plea of Debt upon Demand for 80 *l.*

Ret' &c.

R. R. by *L. R.* 26 *May* 1740. } Affidavit for 40 *l.*

Capias *thereon.*

GEORGE the Second, *&c.* To the Sheriff of *Middlesex*, Greeting. We command you, that you take *A. S.* late of, *&c.* if he shall be found in your Bailiwick, and keep him safely, so that you may have his Body before our Justices at *Westminster*, on to answer *T. D.* of a Plea, wherefore with Force and Arms he broke the Close of the said *T.* at *Westminster*, and did other Wrongs to him, to the great Damage of the said *T.* and against our Peace; and also, that the said *A.* answer to the said *T.* according to the Custom of our Court

Court of the Bench, in a certain Plea of Debt upon Demand for Forty Pounds; and have there this Writ. Witneſs, &c.

Middleſex. *Capias* for *L. R.* againſt *L. K.* late of the Pariſh of St. *James* in the Liberty of *Weſtminſter* in your County, Widow, broke the Cloſe at *Weſtmieſter*; and alſo in Caſe upon Promiſe for 50 *l.* Præcipe *in Treſpaſs, with an* Acetiam *in Caſe upon Promiſe.*

Ret'

GEORGE the Second, &c. To the Sheriff of *Middleſex*, Greeting. We command you, that you take, &c. (as before); and alſo, that the ſaid *L. K.* may anſwer the ſaid *L. R.* according to the Cuſtom of our Court of the Bench, in a certain Plea of Treſpaſs on the Caſe upon Promiſe, to the Damage of the ſaid *L. R.* Fifty Pounds; and have there this Writ. Witneſs, &c. Capias *thereon.*

London. *Capias*, for *T. W.* againſt *J. M.* late of *London*, Gent. and *S. C.* late of *London*, Eſq; Treſpaſs; and alſo againſt the ſaid *J.* for 90 *l.* upon Promiſe; and alſo againſt the ſaid *S.* for 30 *l.* upon Promiſe. Præcipe *in Caſe againſt two Defendants;*

Ret'

Præcipe *in Aſſault.*

Lincoln. Capias for *J. P.* againſt *H. B.* late of *Stamford* in your County, Grocer, in a Plea of Treſpaſs and Aſſault.

Ret'

On a dangerous Battery Bail may be had on an Affidavit and a Judge's Order.

Upon a dangerous Aſſault and Battery that may require Bail, an Affidavit muſt be made of the Fact at large, whereupon a Judge will make an Order for holding the Defendant to Bail in ſuch Sum as on the Circumſtances of the Caſe he ſhall think reaſonable; and then you ſue out a *Præcipe* for a common *Capias* with an *Acetiam.*

Præcipe *in Aſſault with an* Acetiam.

London. Capias for *W. H.* againſt *J. B.* late of *London, Cabinet-Maker,* broke the *Cloſe* at *London*; and alſo in Treſpaſs and Aſſault, to the Damage of the ſaid *W.* 200 *l.*

Ret'

Bail by Order, on Affidavit for 100 *l.* *J. W.*

Præcipe *in Covenant.*

Middleſex. Capias for *E. L.* againſt *G. C.* late of *Weſtminſter* in your County, Gentleman, otherwiſe called (as in the Indenture) in a Plea, that he perform to the ſaid *E.* the Covenant made between them, according to the Force, Form, and Effect of certain Indenture made between them.

Ret'

South-

Southampton. Capias for *T. D.* againſt *J. W.* late of, &c. that he render to the ſaid *T.* his reaſonable Account for the Time in which he was Receiver of the Money of the ſaid *T.* &c. Præcipe *in Account as Receiver.*

If as a Bailiff, then as before to —— for the Time in which he was Bailiff of the ſaid *T.* in *L.* &c. *As Bailiff.*

If as Bailiff and Receiver, then —— for the Time he was his Bailiff in *L.* and Receiver of the Money of the ſaid *T.* &c. *Bailiff and Receiver.*

Lincoln. Command *J. P.* late of *C.* in the County aforeſaid, Gentleman, that he render to him 60 *l.* which are in Arrear for a certain Annuity of 30 *l.* which he owes him, and unjuſtly detains, &c. Præcipe *in Annuity.*

If the Defendant lives not in the County wherein you intend to try the Action, and the Cauſe of Action requires Bail, you make out a *Præcipe* for a *Teſtatum Capias*, which you carry to the Filacer for that County in which you intend to try the Cauſe; as, ſuppoſe the Defendant lives in the City of *York*, and you would try the Cauſe in *London*, you make out a *Præcipe* in the following Form, which you carry to the Filacer for *London.* *Where a Teſtatum Capias neceſſary.*

Præcipe *for a* Teſtatum Capias.

London. Capias for *H. P.* againſt *R. J.* late of the City of *York*, Bookſeller, broke the Cloſe at *London.*

Returnable on the Octave of St. Hilary.

City of *York*, *Teſtatum Capias*, and alſo for 200 *l.* upon Promiſe.

Returnable on the Octave of the Purification.

J D.

Affidavit for 100 *l.* 31 *July*, 1739.

Teſtatum Capias.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriffs of the City of *York*, Greeting. We command you, that you take *R. J.* late of the City of *York*, Bookſeller, if he ſhall be found in your Bailiwick, and keep him ſafely, ſo that you may have his Body before our Juſtices at *Weſtminſter*, on to anſwer *H. P.* of a Plea, wherefore with Force and Arms he broke the Cloſe of the ſaid *H. P.* at *London*, and did other Injuries to him, to the great Damage of the ſaid *H.* and againſt our Peace: And alſo, that the ſaid *R.* anſwer the ſaid *H.* according to the Cuſtom of our

Acetiam.

our Court of the Bench, in a certain Plea of Treſpaſs upon the Caſe on Promiſe, to the Damage of the ſaid *H.* of two Hundred Pounds. And whereupon our Sheriffs of *London* returned to our Juſtices at *Weſtminſter*, at a certain Day now paſt, that the ſaid *R.* was not found in their Bailiwick, whereas it is teſtified in our ſaid Court, that the ſaid *R.* doth lie hid, and run from Place to Place in your County; and have there this Writ. Witneſs, *&c.*

If the Defendant lives in any Liberty which the Sheriff cannot enter, you may get the Filacer to make out a *Non Omittas*, whereupon the Sheriff may enter.

The Form of a Non Omittas.

GEORGE the Second, by the Grace of God, King of *Great Britain*, *France* and *Ireland*, Defender of the Faith, *&c.* To the Sheriff of *L*——, Greeting. We command you, that you do not omit for any Liberty of the Liberty of the Rape of *D.* in your County, but that you take *S. C.* late of, *&c.* if he ſhall be found in your Bailiwick, and that you keep him ſafely, ſo that you may have his Body before our Juſtices at *Weſtminſter*, on to anſwer *W. N.* of a Plea, wherefore with Force and Arms *A* Non Omittas Capias.

Arms he broke the Cloſe of the ſaid *W.* at *G.* and did other Injuries to him, to the great Damage of the ſaid *W.* and againſt our Peace. And alſo that the ſaid *S.* may anſwer the ſaid *W.* according to the Cuſtom of our Court of the Bench, in a certain Plea of Debt upon Demand for Thirty Pounds. And whereupon you returned to our Juſtices at *Weſtminſter* at a certain Day now paſt, that the Bailiff of the aforeſaid Liberty, whom you commanded, by Virtue of our ſaid Writ to you thereupon directed, to take the ſaid *S.* gave you no Anſwer thereto; and have there, *&c.*

Accetiam.

By the like Writ out of the Court of *King's Bench* the Sheriff may enter any Liberty, for the Writ is *Quod non Omittas propter aliquam Libertatem in Com. tuo quin Capias*, &c.

Where the Def. cannot be arreſted on the firſt Writ, a Capias *by Continuance is to be made out.*

If the Defendant cannot be taken on the firſt Writ, or ſerved with a Copy of it, as the Caſe ſhall be, and you don't propoſe to Outlaw him, you ſue out a *Capias* by Continuance, the *Præcipe* for which is the ſame as before, only this Difference, inſtead of ſaying, "*Capias* for "*T. D.* you ſay, *Capias* by Continuance "for *T. D.*" But the Writ is exactly the ſame as the firſt, without the Diſtinction of *Alias* or *Pluries*. You pay for a *Capias* by Continuance, to the

Filacer

	s.	d.
Filacer only	0	10
Duty	1	6
Seal	0	7
	2	11

As the Filacer makes out all these Writs, I think it needless to trouble the Reader with any more Precedents of them.

The Day of Signing the Writ to be set down on the Writ.

Every Officer or Clerk of this Court, who shall sign any Writ or Process before Judgment, to arrest any Person thereupon, shall, before the Signing thereof, set down upon such Writ or Process, the Day and Year of his Signing the same, which shall be entered on the Remembrance upon the Forfeiture of 10 *l.* *Stat.* 5, 6 *W. & M.* and 9, 10 *W.* 3. *for laying Duty on Vellum*, &c.

Sum sworn to, to be indorsed on the Writ.

Where the Plaintiff's Cause of Action shall amount to the Sum of 10 *l.* or upwards, and Affidavit be thereof made, the Sum specified in such Affidavit shall be indorsed on the Back of the Writ or Process, for which Sum so indorsed the Sheriff, or other Officer to whom such Writ or Process shall be directed shall take Bail, and for no more. 12 *Geo.* 1. 5 *Geo.* 2. 13 *Geo.* 2.

The Name of the Attorney to be subscribed on every Writ for Arresting the Body, Execution and Warrant thereon.

Every Writ for Arresting the Body, Writ of Execution, and every Warrant that shall be made out on any such Writ

or

or Execution, ſhall, before the Service thereof, be ſubſcribed or indorſed with the Name of the Attorney in a common legible Hand, by whom ſuch Writ, Execution or Warrant, ſhall be ſued forth; and if ſuch Attorney ſhall not be the Attorney immediately retained by the Plaintiff, then alſo with the Name of the Attorney ſo immediately retained. *Stat.* 2 *Geo.* 2.

And on every Copy of any Writ to be ſerved on the Def.

Every Copy of any Writ or Proceſs, that ſhall be ſerved on any Defendant, ſhall before the Service thereof be in like manner ſubſcribed or indorſed with the Name of the Attorney, who ſhall be immediately retained by the Plaintiff in ſuch Writ or Proceſs. *Same Stat.*

But the Act doth not make the Proceſs void for want thereof.

In Caſe the Attorney's Name be not put to the Writ, the Act of Parliament doth not make the Proceſs void; and tho' the Attorney may be puniſhed for not putting his Name to it, the Party ought not to ſuffer.

The not ſubſcribing the Attorney's Name on a Warrant doth not vitiate the Writ.

The not ſubſcribing or indorſing the Name of the Attorney on any Warrant that ſhall be made out upon any Writ, Proceſs or Execution, ſhall not vitiate the ſame; but ſuch Writ, Proceſs and Execution, and all Proceedings thereon, ſhall be as valid and effectual, notwithſtanding ſuch Omiſſion, as if the Act of 2 *Geo.* 2. had not been made; *Provided* the Writ whereon ſuch Warrant is made out be regularly ſubſcribed or indorſed, according to the ſaid Act. *Stat.* 12 *Geo.* 2.

Of

Of Common Appearances.

COmmon Appearances to Writs made out by the Filacers are entered with the Filacers, for which you pay 2 *s.* if one Defendant, *viz.* 1 *s.* for the King's Duty, and 1 *s.* for entering the Appearance, and 4 *d.* for every Defendant more than one. *Appearance to be entered with Filacer.*

Where a Defendant is ſerved with a Copy of a Proceſs, he muſt cauſe a Common Appearance to be entered on the Return, or within eight Days after ſuch Return. *Stat.* 5 *Geo.* 2. *Def. to appear in eight Days.*

And in caſe the Defendant ſhall not appear within eight Days after the Return of ſuch Writ or Proceſs, the Plaintiff, upon making and filing an Affidavit of the perſonal Service of ſuch Writ or Proceſs, may enter a Common Appearance for the Defendant, and proceed thereon, as if ſuch Defendant had entered the ſame. *Stat.* 12 *Geo.* 1. *Or Plaintiff may on Affidavit of Service appear for him and proceed.*

In the Common Pleas,

John Doe
againſt
Richard Roe, late of *Petersfield* in the County of *Southampton*, Sadler.

J. S. of, *&c.* Gentleman, maketh Oath, that he, this Deponent, did, on the Day of at *Petersfield* in the ſaid County of *Southampton*, *The Form of the Affidavit.*

ampton, perſonally ſerve the Defendant *John Doe* with the Writ or Proceſs hereunto annexed, by ſhewing him the ſaid annexed Writ or Proceſs, and at the ſame Time delivering to him a true Copy thereof, on which Copy was an *Engliſh* Notice in writing of the Intent and Meaning of ſuch Service, as by the Statute in that caſe is required.

Sworn, &c. *J. S.*

Before whom the Affidavit is to be made.

This Affidavit is to be filed *Gratis*, and may be made before any Judge of the Court, or Commiſſioner authoriſed to take Affidavits, or before the proper Officer for entering the Appearance, or his Deputy. *Stat.* 12 *Geo.* 1. 5 *Geo.* 2. vide antea *fol.* 65. the Rule of *Paſ.* 13 *G.* 2.

The eight Days to appear excluſive of the Return Day.

The Defendant has eight Days to enter his Appearance, excluſive of the Return Day, *e. g.* if the Writ be returnable on the Octave of St. *Hilary*, which is the 20th Day of *January*, the Plaintiff cannot enter an Appearance for the Defendant, according to the Statute, until the 29th Day of *January*.

Irregularity in Plaintiff's entering Appearance for Def. to be complained of before Judgment.

If the Plaintiff enters an Appearance for the Defendant before the Time the Defendant has to enter his Appearance is expired, the Defendant muſt complain of this Irregularity before Judgment is ſigned.

Of Bail.

In London *or* Midd. 4 *Days to put in Bail.*

IN *London* and *Middleſex* the Defendant has four Days, excluſive of the Appearance Day of the Return of the Writ, to put in Bail, and in any other City or County he has eight Days excluſive of the Appearance Day. *Hil.* 9 *Ann.*

In any other City or County 8 Days.

If in Town, to put in Bail before a Judge at his Chambers.

If the Bail be to be put in in Town, the Filacer, or other Officer who iſſued out the Writ, is to attend with the Attorney and Bail on one of the Judges at his Chambers, who will take the Recognizance, and the Filacer or other Officer will make an Entry of it in his Book, which Entry he will afterwards draw up in proper Form, if there be Occaſion to ſue the Bail.

To be entered with the proper Filacer.

But Care muſt be taken to apply to the proper Filacer or Officer, in whoſe Office the Bail ought to be entered; for if the Bail be entered in a wrong Office, the Plaintiff may proceed on the Bail-Bond, and the Defendant, before he ſhall be admitted to plead, ſhall pay full Coſts to the Plaintiff. *Trin.* 1 *W. & M.*

How on a Teſtatum Capias.

And in caſe of a *Teſtatum Capias*, Bail muſt be entered, and filed with the Filacer of that County wherein the Action was firſt laid, and not with the Filacer of that County wherein the Defendant was arreſted; for otherwiſe the Bail-Bond may be aſſigned; and it is not to be preſumed

ſumed or expected, that the Plaintiff's Attorney will ſearch with a wrong Filacer.

In caſe the proper Filacer or Officer cannot attend, the Recognizance may be taken without him, on a Piece of Parchment properly ſtampt, *viz.* with a double Twelve Penny Stamp.

And in ſuch caſe you make the Entry in this Manner.

The Form of a Recognizance of Bail taken before a Judge.

London. Capias, *againſt* T. M. *late of* London, *Carpenter, at the Suit of* W. D. *for* 100 *l. upon Promiſe, returnable on the Morrow of the Holy* Trinity.

Affidavit for 50 *l.*

Bail, W. S. *of* Pall-Mall *in the Pariſh of Saint* James *in the Liberty of* Weſtminſter *and County of* Middleſex, *Eſq;*
C. S. *of the ſame Place Apothecary.*

The Defendant bound in 100l.
Each of the Bail in 50l.

Taken and acknowledged
the Day of
&c. before

J. S. Attorney for
the Defendant.

If

If the Defendant be not preſent, and does not enter into the Recognizance, then the Bail are bound in double the Sum the Cauſe of Action is ſworn to amount unto.

When Bail is put in you give Notice thereof in Writing to the Plaintiff's Attorney, as follows.

W. D. Plaintiff
againſt
T. M. Defendant.

SIR,

Take Notice, that *W. S.* of [*naming the Street and Pariſh particularly, as in the Bail-Piece or Filacer's Book*] Eſq; and *C. S.* of, *&c.* Apothecary, were this Day put in as Bail for the Defendant in this Cauſe, before Mr. Juſtice ———— *Notice of Bail put in.*

Your humble Servant,
J. S.
Attorney for the Def.
10 June 1740.

To Mr. S. T. *Attorney for the Plaintiff.*

If the Plaintiff's Attorney excepts to the Bail, he marks the Exception in the Filacer's Book or on the Bail-Piece, and gives Notice thereof in Writing to the Defendant's Attorney.

The Bail, if excepted to, muſt juſtify in four Days, or other Bail muſt be added, who can juſtify within that Time, *vide poſtea*, fol. 88. *Rule Trin.* 3 & 4 *Geo.* 2.

The Defendant's Attorney muſt give Notice of adding or juſtifying or both, as the Caſe ſhall be, *&c.*

W. D. Plaintiff
againſt
T. M. Defendant.

SIR,

Notice of Bail added, and of juſtifying.

This Day before Mr. Juſtice ——— *R. H.* of, *&c.* in the County of *Middleſex*, Victualer, was added to the Bail already put in for the Defendant in this Cauſe, and on *Saturday* Morning next, or ſo ſoon after as Counſel can be heard, the ſaid *R. H.* and alſo *C. S.* one of the Bail before put in for the ſaid Defendant in this Cauſe, will juſtify themſelves as Bail in Court.

Your humble Servant,
J. S.
Attorney for the Def.
11 June 1740.

To Mr. S.T. *Attorney for the Plaintiff.*

He muſt make an Affidavit of the Service of the Notice, and get a Serjeant to move for Leave to juſtify in Court.

Common Pleas.

W. D. Plaintiff
againſt
T. M. Defendant.

Affidavit of the Service of the Notice.

A. S. Clerk to Mr. *J. S.* Attorney for the Defendant in this Cauſe, maketh Oath, That he, this Deponent, did on

on *Wedneſday* laſt, being the Eleventh Day of *June* inſtant, ſerve Mr. *S. T.* the Attorney for the Plaintiff in this Cauſe, with the Notice hereunto annex'd, by delivering a true Copy of the ſaid Notice to the ſaid Mr. *T.*

Sworn, &c. *A. S.*

The Expence out of Pocket is generally as follows:

Putting in Bail before a Judge.

	l.	*s.*	*d.*
Duty	0	2	0
Filacer in ſome Counties	0	6	0
Judge's Clerk	0	5	0
	0	13	0

Adding,

Filacer	0	5	4
Judge's Clerk	0	2	0
	0	7	4

Juſtifying in Court,

Affidavit of Notice	0	2	0
Serjeant's Fee	0	10	6
Filacer	0	5	4
Secondary	0	1	0
Cryers	0	2	6
	1	1	4
	2	1	8

Judges may appoint Commissioners to take Bail.

The Judges of this Court, or any two of them, whereof the Chief Justice to be one, may by Commissions under the Seal of the Court, from Time to Time, impower such Persons, either Attornies or Solicitors, as they shall think fit, in any of the Counties of *England*, to take such Recognizances of Bail as any Person shall be willing to make before them, in any Action or Suit depending in this Court, in Manner and Form as the Judges of the Court have used to take the same; which Recognizance shall be transmitted to one of the Judges, who upon Affidavit made of the due taking thereof shall receive the same, upon Payment of the usual Fees: Which Recognizance shall be of the like Effect as if taken *de bene esse* before any Judge of the Court. *Stat.* 4 *W.* & *M. c.* 4.

The Recognizance to be transmitted to one of the Judges.

Fee for taking Recognizance 2 *s.*

For taking this Recognizance the Commissioner is to take 2 *s.* and no more.

Judges of Assize may take the Recognizance of Bail.

The Judges of Assize may take Recognizances of Bail, which shall be transmitted and received as aforesaid, without Oath. *Same Stat.*

Where Bail may justify by Affidavit.

The Bail may justify themselves by Affidavit before the Commissioner, unless they live in *London* or *Westminster*, or within ten Miles thereof.

Bail put in before a Judge must justify in Person.

Bail put in before a Judge must justify in Person, and cannot justify by Affidavit.

Upon this Act for taking Bail by Commissioners in the Country the Court has made several Rules, *viz.*

Before

Before any Bail shall be taken by virtue of this Act, a true Copy in Parchment of the Writ, to which the Defendant is to put in Bail, shall be brought to the Commissioner, and on the said Copy the Recognizance or Bail-Piece shall be ingrossed in this or the like Form, as the Case shall be. *Of putting in Bail before a Commissioner.*

Bail, *John Denn* of *Blackbarnsley* in the Parish of *Settle* in the County of *York*, Gentleman, and *Richard Fenn* of the same Place, Gentleman. *The Recognizance.*

The Party himself in 20 *l.*
Each of the Bail in 10 *l.*

Taken and acknowledged on the Day of in the Year of our Lord conditionally (or *de bene esse*) before me *A. B.* one of the Commissioners.

The Condition of the Recognizance.

You (*naming the Defendant if present*) do acknowledge to owe unto the Plaintiff 20 *l.* You (*naming the Bail*) do severally acknowledge to owe unto the Plaintiff the Sum of 10 *l.* a-piece, to be levied upon your several Goods and Chattels, Lands and Tenements, upon Condition, that if the Defendant be condemned in the said Action, he shall pay the Condemnation-Money, or render himself a Prisoner to the *Fleet* for the same; and if he fail so to do, you (*naming the Bail*) do undertake to do it for him. *Condition.*

Affidavit to be made of the Taking such Bail.

Affidavit of the due Taking such Bail shall be made before some Judge of this Court to whom the Bail shall be transmitted, or before some Person having Power to take Affidavits in Causes depending in this Court. *Pas. 5 W. & M.*

Bail taken by a Commissioner within 40 *Miles of* London, *to be transmitted in* 10 *Days;*

above 40 *Miles in* 20 *Days;*

Unless, &c.

All Bails taken by any Commissioner within the Distance of forty Miles from the Cities of *London* and *Westminster*, shall be transmitted to the Lord Chief Justice, or one of the Judges of the Court within ten Days after the Taking thereof; and all Bails taken by any Commissioner above the Distance of forty Miles from the said Cities of *London* and *Westminster*, shall be transmitted within twenty Days after the Taking thereof, unless the Justices shall be on the Circuits, and then as soon as one of them shall return to *London* out of his Circuit. *Same Rule.*

And filed with the proper Officer or Plaintiff to proceed on the Bail-Bond.

And Defendant not to be admitted to plead to original Action, but on Payment of Costs, &c.

And after such Transmission shall be forthwith filed with the proper Officer to be entered upon Record, otherwise shall be as no Bail, and the Plaintiff to be at Liberty to proceed on the Bail-Bond as if no such Bail had been put in; and the Defendant, in Case he be admissable to plead to the original Action, shall not be admitted so to do, unless he first pay the full Costs to the Plaintiff for the Prosecution on the Bail-Bond, and plead as of the Time when the Bail should have been duly entered. *Hill. 6 Geo. 1.*

Bails taken before Commiſſioners and tranſmitted to and allowed by a Judge, ſhall be delivered to the Clerk of the Judge, who ſhall allow the ſaid Bail, which Clerk ſhall take the Fees due to the proper Officer for the Entry thereof, and forthwith deliver the ſame to be filed. *Mich.* 13 *Geo.* 1.

On Bail tranſmitted, Judge's Clerk to take the Fees for the Entry.

All Bails taken before Commiſſioners in the Country ſhall be tranſmitted and filed with the proper Officer, according to the Rule *Hill.* 6 *Geo.* 1. And no ſuch Bail ſhall be received or filed, unleſs tranſmitted within the reſpective Times appointed by the ſaid Rule, without Leave of the Court. *Mich.* 6 *Geo.* 2.

No Bails to be received or filed, unleſs tranſmitted within the Times aforeſaid.

If the Bail be not filed within the Times above directed, Application muſt be made to the Court, the Judges in the Treaſury will not give Leave to file it, the Rule ſaying, it ſhall not be filed without Leave of the Court.

If not filed in Time, Application to the Court; no Leave in the Treaſury.

Every Defendant's Attorney ſhall give Notice to the Plaintiff's Attorney of the Taking ſuch Bail within four Days after the Caption thereof. *Mich.* 13 *Geo.* 1.

Notice of ſuch Bail to be given within 4 *Days.*

Every Commiſſioner is to have a Book for entring the Names of the Defendant and his Bail, and of the Plaintiff, as in the Bail-piece, and the Time of Taking thereof; and the Name of him by whom ſuch Bail ſhall be tranſmitted.

Name of Defendant and his Bail to be entred in Commiſſioner's Book.

The Plaintiff's Attorney may repair to ſuch Book for the Names of the Bail, to the End he may inquire of the Sufficiency

Where Plaintiff's Attorney to ſearch.

Exception to be within twenty Days after Bail tranſmitted, and Notice.

of them; and if they are found inſufficient, may except againſt them within twenty Days after the ſaid Bail is tranſmitted and Notice to the Plaintiff or his Attorney of taking thereof; and in that Caſe the Defendant muſt either put in better Bail, or the Cogniſors of ſuch Bail muſt juſtify themſelves in open Court by Affidavit made before the Commiſſioner that took the ſaid Bail, or by Oath made in Court, or before one of the Judges. *Paſ. 5 W. & M.*

And then better Bail or Bail to juſtify.

Bail excepted to, to be perfected within 4 Days.

If ſpecial Bail be excepted to, the Defendant ſhall perfect his Bail within four Days after Exception taken, and in Default thereof the Plaintiff may proceed on the Bail-Bond. *Trin.* 3 & 4 *G.* 2.

Additional Bail are to juſtify, tho' not excepted to.

If the Plaintiff excepts to the Bail, and the Defendant adds further Bail, the additional Bail muſt juſtify themſelves in Court within the four Days, without waiting for the Plaintiff's excepting to them, for the Plaintiff is not bound to except to additional Bail; and in Default of Juſtifying, as aforeſaid, he may proceed on the Bail-Bond.

Bail excepted to in the Vacation to juſtify within the firſt four Days of the next Term.

If the Plaintiff except to Bail in the Vacation, and will not be ſatisfied with Juſtification before a Judge, the Bail muſt juſtify within the firſt four Days of the next Term at leaſt, but it is ſafer to juſtify on the firſt Day of the Term.

What Notice to be given of Juſtifying.

Notice to juſtify muſt be given two Days before the Day of Juſtification; and a *Sunday* ſhall not be reckoned as one of

of the two Days; Notice on the *Saturday* to juſtify on the *Monday* is inſufficient.

No Attorney of this or any other Court, or any Perſon practiſing as ſuch, ſhall be Bail in any Suit or Action depending in this Court. *Mich.* 6 *Geo.* 2. *No Attorney to be Bail.*

No Sheriff's Officer, Bailiff, or other Perſon concerned in the Execution of Proceſs ſhall be permitted or ſuffered to become Bail in any Action or Suit depending in this Court. *Same Term.* *No Sheriff's Officer.*

In Caſe the Defendant does not put in Bail by the Time limited by the Courſe of the Court, the Plaintiff may take an Aſſignment of the Sheriff's Bail-bond, if he approves of the Sufficiency of the Obligors. *Of aſſigning the Bail-Bond.*

The Sheriff, at the Requeſt and Coſts of the Plaintiff or his lawful Attorney, ſhall aſſign to the Plaintiff the Bail-Bond by Indorſing the ſame, and atteſting it under his Hand and Seal in the Preſence of Two or more credible Witneſſes, which may be done without any Stamp, provided the Aſſignment ſo indorſed be duly ſtamped before any Action be brought thereon. *Stat.* 4 *&* 5 *Ann.* *Sheriff on Requeſt to aſſign Bail-Bond to Plaintiff.*

And if the Bail-Bond be forfeited, the Plaintiff may after ſuch Aſſignment bring an Action thereupon in his own Name, and the Court may by Rule give ſuch Relief to the Plaintiff and Defendant in the original Action, and to the Bail on the ſaid Bond, as ſhall be agreeable to Juſtice and Reaſon, and ſuch Rule of Court *Who may bring an Action in his own Name.*

Court ſhall have the Effect of a Defeaſance to ſuch Bail-Bond. *Same Stat.*

When Bail-Bond may be put in Suit.

No Bail-Bond taken in *London* or *Middleſex* ſhall be put in Suit 'till four Days excluſive of the Appearance-Day of the Return of the Writ on which the Bail-Bond was taken; and no Bail-Bond taken in any other City or Town ſhall be put in Suit till after eight Days excluſive of the Appearance-Day of the Return of the Proceſs, and all Proceedings to the contrary thereof ſhall be ſet aſide with Coſts. *Hill.* 9 *Ann.*

E. G. In a Country Cauſe if the Writ be returnable *tres Michaelis*, the Defendant has to the 31ſt of *October* to put in Bail, and the Bail-Bond cannot be put in Suit till the firſt of *November*.

Rule for Sheriff to return the Writ.

If the Plaintiff does not approve of the Bail taken by the Sheriff, he may give the Sheriff a Rule to return the Writ, and on his Returning a *Cepi Corpus* he may give him a like Rule to bring in the Body, and in Default thereof may have an Attachment againſt him.

And like to bring in the Body.

Sheriff not returning a Writ within ſix Days after Rule, to pay Coſts.

If any Sheriff, Under-Sheriff, or his Deputy, or any other Officer having the Return of any Proceſs iſſuing out of this Court, or of any Precept or Warrant thereupon, ſhall neglect or refuſe to return the ſame within ſix Days after Service of a Rule of this Court for that Purpoſe, ſuch Sheriff, Under-Sheriff, *&c.* ſhall be liable to pay the Coſts occaſioned by ſuch Neglect. *Hill.* 8 *Geo.* 1.

And

And if the Sheriff returns, That the Defendant *Non eſt inventus* in his Bailiwick, when he had really arreſted him, an Action may be brought againſt him for a falſe Return.

An Action lies againſt him for a falſe Return.

Formerly, If the Bail taken by the Sheriff was put in above, the Plaintiff could not except againſt ſuch Bail; but the ſame ſtood good and abſolute: But now,

If the ſame Bail be put in above as given to the Sheriff, the Plaintiff may except,

In all Caſes wherein Bail-Bonds ſhall be taken, and the ſame Bail ſhall be put in above, the Plaintiff may except againſt ſuch Bail. *Mich.* 6 *Geo.* 2.

And unleſs the Bail ſo excepted againſt ſhall juſtify themſelves, or other Bail be added, who ſhall juſtify themſelves within the Time limited by the Rules of the Court, the Plaintiff may take an Aſſignment of the Bail-Bond, and proceed thereon notwithſtanding he excepted to the ſame Perſons when put in as Bail above.

and proceed on the Bail-Bond, notwithſtanding, if they don't juſtify.

Two Perſons at leaſt muſt become Bail for the Defendant; the putting one Bail only is eſteemed as no Bail, not even ſufficient to ground a Surrender upon, tho' it be done immediately; and the Plaintiff in ſuch Caſe may proceed on the Bail-Bond notwithſtanding the Surrender; for the Defendant cannot be ſurrendered until the Bail is complete.

One Bail eſteemed as no Bail.

Defendant cannot ſurrender till Bail is complete.

If an Action of Debt be brought on a Recognizance of Bail, the Writ muſt be ſerved four Days before the Return; and the Bail may ſurrender the Principal on the

Debt on Recognizance of Bail, Writ to be ſerved four Days before Return.

What Time to ſurrender thereon.

the *Quarto die poſt* of the Return *ſedente Curia*, but not after the Court is riſen.

No Action on Recognizance of Bail, pending a Writ of Error in the original Cauſe.

Though an Action of Debt on a Judgment may be brought pending a Writ of Error in the original Action, and the Court will let the Plaintiff proceed to Judgment, and only ſtay Execution till the Writ of Error is determined; yet if an Action of Debt be brought on a Recognizance of Bail pending a Writ of Error in the original Cauſe, the Court will ſtay Proceedings in ſuch Cauſe without the Bail giving Judgment, for by the Judgment the Bail would be barred from ſurrendring the Principal.

When Bail may ſurrender on Sci. fa.

If the Plaintiff proceeds by *Scire facias* againſt the Bail, in Caſe of one *Scire facias* return'd *Scire feci*, the Bail may ſurrender the Principal on the Appearance-Day of the Return of the *Scire facias*; and in Caſe of two *Scire facias's* with *Nihils* return'd, the Surrender muſt be on the Appearance-Day of the Return of the laſt *Scire facias*, *ſedente Curia*.

Ca. Sa. *in order to charge the Bail ſhould lie in the Sheriff's Office* 4 *Days.*

A *Capias ad ſatisfaciendum* againſt the Principal in order to charge the Bail, ſhould be left with the Sheriff four Days before the Return.

And have 15 *Days between* Teſte *and Return.*

Such *Capias ad ſatisfaciendum* ſhould have fifteen Days between the *Teſte* and Return, *v. antea* fol. 55.

A *Capias ad ſatisfaciendum* returnable at a Time when a Writ of Error is depending, is not a ſufficient Foundation to proceed againſt the Bail. *Bad returnable pending a Writ of Error.*

One who is Bail cannot be a Witneſs in the Cauſe for his Principal, therefore if the Defendant ſhould have Occaſion to examine one of his Bail as a Witneſs at the Trial, he muſt make an Affidavit that ſuch Bail is a material Witneſs for him in the Cauſe, and thereupon move the Court that ſuch Bail may be ſtruck out of the Bail-piece, on adding and juſtifying another in his Stead. *Bail can't be Witneſs for the Defendant.*

In an Action of Aſſault and Battery the Plaintiff procured a Judge's Order to hold the Defendant to Bail for 140 *l.* whereupon the Defendant became bound in 280 *l.* and the Bail jointly and ſeverally in 140 *l.* The Plaintiff had a Verdict for 300 *l.* and brought ſeparate Actions on the Recognizance againſt the Bail. The Bail moved the Court that on Payment of one Sum of 140 *l.* and Coſts, Proceedings might be ſtayed, and compared this to an Action on a Bond; but the Plaintiffs inſiſted, that there is a Difference, for in a Bond the Condition is to pay the Money; and if one Obligor pays it, the other ſhall be diſcharged, for the Condition is complied with; but in a Recognizance the Condition is not ſatisfied 'till the Damages recovered be paid, or the Defendant ſurrendered. *Bail jointly and ſeverally for* 140 l. *Verdict for* 300 l. *each ſhall pay* 140 l.

And

And it was held, that the Bail being jointly and ſeverally bound, the Actions againſt them could not be diſcharged unleſs the Condition of the Recognizance was performed, *viz.* that the Defendant ſhould pay what was recovered, or ſurrender himſelf to the *Fleet*. *Calverack & Ux.* v. *Pinhero*, *Mich.* 12 *G.* 2.

Of Declarations.

THE next Thing the Plaintiff's Attorney has to do is to prepare his Declaration:

Summonitus and *Attachiatus.*

And note, That if the Action be in

Debt,	*Account*,
Detinue,	*Annuity*, or
Covenant,	*Replevin*,

It muſt be ſaid in the Declaration, the Defendant was ſummoned to anſwer, *&c.*

If the Action be in

Caſe,	*Trover*, or
Treſpaſs,	*Ejectment*,

Then the Declaration is, that the Defendant was attached to anſwer, *&c.*

On

On a common *Clauſum fregit*, the Plaintiff may declare in any County, or for any Cauſe of Action, for that Proceſs is only to bring the Party into Court.

On a Clauſum fregit *may declare in any County, or for any Action.*

On a *Clauſum fregit* with an *Acetiam* in Debt, Caſe, or any other Action, the Plaintiff may declare in any County, or for any Cauſe of Action whatſoever, but then he will loſe his Bail.

The like on a Clauſum fregit, *with an* Acetiam.

In a *Præcipe quod reddat* the Plaintiff can declare in no other Action but Debt, except he deliver a Declaration by the By, and in that Caſe he muſt firſt deliver a Declaration in the original Action.

On a Præcipe quod reddat *muſt declare in Debt.*

Except it be by the By.

On an Attachment of Privilege *de placito debiti*, the Plaintiff cannot declare in Caſe, or for any Cauſe of Action but Debt, unleſs the Declaration be delivered by the By, and in that Caſe the Plaintiff muſt firſt declare in Debt, for an Attachment of Privilege is in the Nature of a ſpecial Original.

The like on an Attachment of Privilege.

If an Action be brought by Baron and Feme, and a Declaration be delivered, in that Action, the Husband cannot thereupon deliver a Declaration by the By at his own Suit.

On Declaration by Baron and Feme, the Husband can't Declare by the By at his own Suit.

When you have drawn the Declaration for your Aſſiſtance, wherein you may have recourſe to the following Precedents, you ingroſs a Copy of it on double Penny ſtamp'd Paper, and deliver it to the Defendant's Attorney, who muſt

Of delivering the Declaration.

pay you for the ſame at the Rate of 4 *d.* *per* Sheet, (reckoning ſeventy-two Words to a Sheet) beſides the King's Duty, and eight Pence for filing his Warrant of Attorney, and then you give a Rule for the Defendant to plead, with the Secondary of that Prothonotary with whom you enter your Proceedings; for this Rule you pay 1 *s.* 4 *d.* *viz.* 1 *s.* for the King's Duty, and 4 *d.* to the Secondary for the Rule.

Plea to be demanded in Writing.

Before the Plaintiff's Attorney can ſign Judgment, he muſt by Note in Writing demand a Plea of the Defendant's Attorney, except where the Plaintiff has entered an Appearance for the Defendant.

Plaintiff has till the End of the ſecond Term, to deliver his Declaration.

Upon Proceſs returnable the firſt, or any other Return of a Term, the Plaintiff has the Liberty to the End of the next enſuing Term to deliver his Declaration to the Defendant's Attorney, or to leave the ſame in the Office; and the Defendant's Attorney (having entred his Appearance) may, at the End of the enſuing Term, or in four Days after, give a Rule for the Plaintiff to declare, and having demanded a Declaration by Note in Writing of the Plaintiff's Attorney, may at any Time in the Vacation of ſuch enſuing Term, after the Rule for declaring is out, ſign his *Non Proſ.* for Want of a Declaration, and not afterwards; and the Plaintiff ſhall not, without Leave of the Court, have any longer Time to declare than

Defendant after ſecond Term may give a Rule to declare.

Declaration to be demanded in Writing.

And for Want thereof Non Pros. *to be ſigned.*

than as aforesaid, other than the Time limited by the Defendant's Rule. *Hil.* 9 *Annæ.*

Declaration to be demanded of the Agent, and not of the Country Attorney.

On a Rule given to declare a Declaration was demanded of the Attorney in the Country, by his own Agreement, but the *Non-Pros* signed for want of a Declaration was held to be irregular, for the Declaration should have been demanded of the Agent in Town.

Where no Rule the Plaintiff has till the Essoin-Day of the 3d Term to declare.

Where the Defendant at the End of the second Term does not give a Rule for the Plaintiff to declare, the Plaintiff has till the Essoin-Day of the third Term to deliver his Declaration.

Plaintiff has 2 Terms to declare after Bail complete.

It has been held, that the Defendant has two Terms to declare in, after Bail is put in and perfected.

Where the Plaintiff appears for the Defendant.

Where a Copy of a Process is served on any Defendant, and an Appearance is entered for such Defendant by the Plaintiff's Attorney, pursuant to the late Act for preventing frivolous and vexatious Arrests, the Plaintiff's Attorney shall leave a Copy of the Declaration in the Office, and give Notice thereof to the Defendant, by delivering an *English* Notice written in a Secretary Hand to such Defendant, or by leaving the same at his last or most usual Place of Abode, signifying the Nature of such Action, at whose Suit it is prosecuted, and in whose Office such Declaration is left; and from the Time of giving such Notice such Declaration shall be deemed well delivered to such Defendant. *Mich.* 1 *Geo.* 2.

Declaration to be left in the Office.

And Notice left for Def. at his last Place of Abode.

Declaration well delivered from Time of Notice.

And if Def. don't plead may ſign Judgment without farther Calling for a Plea.

And in caſe ſuch Defendant, after ſuch Notice given, ſhall not plead by the Time the Rule for Pleading is out, the Plaintiff in ſuch Caſe may ſign his Judgment (a Rule to plead being firſt given) without any other or farther calling for a Plea. *Same Rule.* *See* Title *Inquiry.*

Where the Plaintiff appears for the Def. he may proceed without taking Notice of any Attorney the Def. may have employed.

Where the Defendant fails to enter his Appearance, and the Plaintiff enters it for him, he may proceed according to the above Rule, tho' the Defendant may have employed an Attorney to appear and plead for him, and have given the Plaintiff Notice of it, and the Plaintiff need not call on ſuch Attorney for a Plea.

When the Def. ſhall plead in four Days.

On all Proceſs returnable the firſt or ſecond Return of any Term, if the Plaintiff declares in *London* or *Middleſex*, and the Defendant lives within twenty Miles of *London*, the Defendant ſhall plead within four Days *after* ſuch Declaration delivered without any Imparlance, and ſuch Declaration may be delivered *de bene eſſe.* *Mich.* 3 *Geo.* 2.

When Decl. may be delivered de bene eſſe.

When the Def. has 8 *Day's Time to plead.*

And in caſe the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, the Defendant ſhall plead within eight Days *after* the Declaration delivered, and in Default of Pleading as aforeſaid, the Plaintiff may ſign his Judgment. *Same Rule.*

Such Declarations to be delivered with Notice when to plead.

And all Declarations in *London* and *Middleſex* delivered purſuant to the above Rule, on Proceſs returnable the firſt or

ſecond

ſecond Return of any Term, where the Defendant lives within twenty Miles of *London*, ſhall be delivered, with *Notice* to plead to ſuch Action within four Days *after* ſuch Declaration delivered; and all Declarations where the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, ſhall be delivered with *Notice* to plead within eight Days *after* ſuch Declaration delivered. *Paſch.* 3 *Geo.* 2.

Decl. may be delivered de bene eſſe *before Time for Bail or Appearance expired.*

The Plaintiff may deliver a Declaration *de bene eſſe* before the Time the Defendant has to put in Bail, or enter a Common Appearance, is expired, but not afterwards.

On Declaration de bene eſſe *Judgment can't be ſigned till Appearance entered.*

In an Action which requires only a Common Appearance, if a Declaration be delivered *de bene eſſe*, the Plaintiff can't ſign Judgment for want of a Plea, till the Time the Defendant had to enter his Appearance is expired; as ſuppoſe the *Capias* is returnable *Octab. Hilar.* and a Decla-

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The four or eight Days to plead are inclusive, and the Notice may be given accordingly.

Though by the Word *after* in the above Rules they ſeem to exclude the Day of the Delivery of the Declaration, the Conſtruction of them muſt be governed by the Rule to plead, which is incluſive of the Day on which it is given. And therefore if a Declaration be left in the Office *de bene eſſe* on the firſt Day of a Term, Notice thereof may be given on the ſame Day to plead within the firſt four Days of the Term (or firſt eight Days of the Term, if the Defendant has eight Days to plead) and not ſay within the firſt four (or eight) Days after the Declaration delivered.

ration is left in the Office *de bene esse* on the 23d of *January*, and Notice and a Rule to plead is given the same Day, the Rule will be out on the 26th, but as the Defendant has eight Days to appear, exclusive of the Return-Day, the Plaintiff can't sign Judgment for want of a Plea, till the 29th of *January*, and then an Appearance must be first entered, either by the Defendant or the Plaintiff for him.

Indorsement on Declaration de bene esse.

Where a Declaration is left in the Office *de bene esse*, there should be an Indorsement on it, signifying that it is left conditionally, or *de bene esse*.

Decl. to be delivered 4 Days exclusive before the End of the Term.

The Declaration should be delivered four Days (exclusive of the Day of the Delivery) before the End of the Term.

All Declarations and Pleadings must be delivered, and all Demands thereof, and all Notices given, before nine of the Clock in the Evening. *Mich.* 9 *Geo.* 2.

Decl. delivered to Def. his Attorney being known, is bad.

A Copy of a Declaration delivered to the Defendant, his Attorney being known, is a bad Delivery of the Declaration.

If the Attorney be not known, the Declaration may be left in the Office, and Notice given to the Defendant.

Must be delivered to the Agent, and not to the Country Attorney.

Where a Country Attorney is concerned for the Defendant, the Declaration or Notice of its being left in the Office (as the Case shall be) must be given to the Agent, and not the Country Attorney.

Decl. is only well delivered from the Time of Notice.

The Declaration is only well delivered from the Time of Notice, and therefore if Notice of the Declaration be given after

after the Rule to plead is given, it is irregular.

If such Defendant has eight Days to plead, and the Declaration be delivered with Notice to plead in four Days, it is irregular, though Judgment be not signed till the eight are expired.

Notice to plead in 4 Days when it should be 8, irregular.

On a Motion to set aside Judgment, for that the Notice of the Declaration mentioned, that the Declaration was for Goods sold and delivered, and Materials found, whereas there was a Count in the Declaration for Money lent, which was not mentioned in the Notice. Upon reading the Rule of Court, which is, that the Plaintiff shall give Notice of the Nature of the Action, the Notice was held to be good; and it was said, that it is not necessary to set forth the whole Declaration. *Turner*, Administrator, v. *Bourns*, *Pasch.* 2 *Geo.* 2.

Notice need not set forth the whole Declaration.

It is only necessary to set forth the Nature of the Action, as in Debt or in Case, without mentioning for what, for that will appear by the Declaration itself. *Skin* against *Gwinel*, *Pas.* 5 *Geo.* 2.

Only the Nature of the Action.

If there be any Irregularity in the Delivery or Notice of the Declaration, the Defendant must apply to the Court two Days before the Day appointed for executing the Writ of Inquiry.

Irregularity in delivering Declaration to be complained of two Days before executing Inquiry.

Precedents of Declarations.

Cooke.

Eaſter *Term in the Eleventh Year of the Reign of King* George *the Second.*

On a Bond.

Middleſex, *to wit*, P. *F.* late of *Weſtminſter* in the ſaid County of *Middleſex*, Doctor of Phyſic, otherwiſe called *P. F. de Paroch. Sancti Martini in Prat. Weſtmonaſterii, Medicinæ Doctor*, was ſummoned to anſwer *J. H.* of a Plea, that he render to him Seventy Pounds, which he owes to him, and unjuſtly detains, and ſo forth. And wherefore the ſaid *J.* by *A.B.* his Attorney ſays, That whereas the ſaid *P.* on the nineteenth Day of *April*, which was in the Year of our Lord one Thouſand ſeven Hundred and twenty-ſeven, at *Weſtminſter* aforeſaid in the County of *Middleſex* aforeſaid, by his certain Writing obligatory acknowledged himſelf to be bound to the ſaid *J.* in the aforeſaid Sum of Seventy Pounds, to be paid to the ſaid *J.* when he ſhould be thereunto required: Nevertheleſs the ſaid *P.* although often required, hath not paid the ſaid Seventy Pounds to the ſaid *J.* but hath hitherto refuſed, and ſtill doth refuſe to pay the ſame to him; wherefore he ſays he is the worſe, and hath Damage to the Value of Twenty

Twenty Pounds; and therefore he brings Suit, and ſo forth. And he brings here into Court the aforeſaid Writing, which teſtifies the ſaid Debt in form aforeſaid, the Date whereof is the Day and Year abovementioned, and ſo forth.

Borret.

Michaelmas *Term in the Twelfth Year of King* George *the Second.*

London, *to wit,* *W. S.* late of *London*, Eſq; was ſummoned to anſwer *R. F.* Gentleman, of a Plea, that he render to him 50 *l.* which he owes him, and unjuſtly detains, *&c.* And whereupon the ſaid *R. F.* by *L. R.* his Attorney, ſays, That whereas the ſaid *W. S.* on the Day of in the Year of our Lord one Thouſand ſeven Hundred and thirty-ſeven, at *London* aforeſaid in the Pariſh of St. *Mary Le Bow* in the Ward of *Cheap*, borrowed of the ſaid *R. F.* the ſaid 50 *l.* to be paid to the ſaid *R. F.* when he the ſaid *W. S.* ſhould be thereunto required; yet the ſaid *W. S.* although often required, has not yet paid the ſaid 50 *l.* to the ſaid *R. F.* but has hitherto intirely refuſed, and ſtill does refuſe, to pay him the ſame; wherefore the ſaid *R. F.* ſays, that he is injured, and has Damage to the Value of 20 *l.* and thereupon he brings Suit, *&c.* *On a* Mutuatus.

You ſeldom declare in Debt for Money borrowed, but where Judgment for a Debt without Bond is confeſſed by virtue of a Warrant of Attorney, but declare in caſe on an *Indebitatus aſſumpſit.*

Cooke.

Hilary *Term in the Twelfth Year of the Reign of King* George *the Second.*

Indebitatus aſſumpſit *for Money lent.*

Middleſex, *to wit,* T. *T.* late of *Weſtminſter* in the County of *Middleſex*, Dealer in Coals, was attached to anſwer *T. D.* in a Plea of Treſpaſs on the Caſe: And whereupon the ſaid *T. D.* by *L. R.* his Attorney complains, That whereas the ſaid *T. T.* on the firſt Day of *January* in the Year of our Lord one Thouſand ſeven Hundred and thirty-eight, at the Pariſh of St. *Clement Danes* in the County of *Middleſex*, was indebted to the ſaid *T. D.* in the Sum of 100 *l.* lawful Money of *Great Britain*, for the like Sum of Money before that Time lent by the ſaid *T. D.* to the ſaid *T. T.* at his ſpecial Inſtance and Requeſt, and being ſo indebted, the ſaid *T. T.* in Conſideration thereof afterwards, *to wit*, the ſame Day and Year, at the Pariſh aforeſaid in the County aforeſaid, undertook, and then and there faithfully promiſed the ſaid *T. D.* that he the ſaid *T. T.* would well and truly pay the ſaid 100 *l.* to the ſaid *T. D.* when he the ſaid *T. T.* ſhould be

be thereunto afterwards required: *Nevertheleſs* the ſaid *T. T.* not at all regarding his ſaid Promiſe and Undertaking made in Form aforeſaid, but contriving and fraudulently intending in this behalf craftily and ſubtilly to deceive and defraud the ſaid *T. D.* hath not paid the ſaid Sum of Money, or any Part thereof, to the ſaid *T. D.* (although thereunto required by the ſaid *T. D. to wit*, on the ſaid firſt Day of *January*, and often afterwards, at the Pariſh aforeſaid in the County aforeſaid) but hath intirely refuſed, and ſtill doth refuſe, to pay him the ſame, to the Damage of the ſaid *T. D.* of 120 *l.* and thereupon he brings Suit, *&c.* Breach.

As before, to —— For that whereas the ſaid *O. B.* on the Day of in the Year of his preſent Majeſty's Reign at the Pariſh of in the County of *Middleſex*, was indebted to the ſaid *S. A.* in 30 *l.* lawful Money of *Great Britain*, for ſo much Money by the ſaid *O. B.* before that Time had and received to the Uſe of the ſaid *S. A.* and being ſo indebted, the ſaid *O. B.* in Conſideration thereof afterwards, *to wit*, on the ſame Day and Year, at the Pariſh aforeſaid in the County aforeſaid, undertook, and then and there faithfully promiſed the ſaid *S. A.* that he the ſaid *O. B.* would well and truly pay the ſaid 30 *l.* to the ſaid *S. A.* when he the ſaid *O. B.* ſhould be thereunto after- Indeb. aſſ. *for Money had and received to the Plaintiff's Uſe.*

afterwards required: *Nevertheleſs*, &c. *as before.*

Indeb. aſſ. *for Money laid out.*

As before, to —For that whereas the ſaid *T. M.* on the Day of in the Year of his preſent Majeſty's Reign, at the Pariſh of in the County of was indebted to the ſaid *C. M.* in 20 *l.* lawful Money of *Great Britain*, for ſo much Money by the ſaid *C.* for the Uſe of the ſaid *T.* and at his ſpecial Inſtance and Requeſt before that Time paid, laid out and expended, and being ſo indebted the ſaid *T.* afterwards, *to wit*, on the ſame Day and Year, at the Pariſh aforeſaid in the County aforeſaid, undertook, and then and there faithfully promiſed the ſaid *C.* that he the ſaid *T.* would well and truly pay the ſaid 20 *l.* to the ſaid *C.* when he the ſaid *T.* ſhould be thereunto afterwards required: *Nevertheleſs*, &c.

Cooke.

Eaſter Term *in the Eleventh Year of King* George *the Second.*

On a Bill of Exchange.

London, *to wit*, *T. M.* late of *London*, Merchant, was attached to anſwer *J. S.* in a Plea of Treſpaſs on the Caſe: And whereupon the ſaid *J. S.* by *M. C.* his Attorney complains, that whereas the ſaid *T. M.* on the 17th Day of *May* in the Year of our Lord 1733. at *London* in the

Pariſh of St. *Mary Le Bow* in the Ward of *Cheap* (he being then a Perſon trading, merchandizing, and uſing Commerce at *London* aforeſaid) according to the Uſage and Cuſtom of Merchants from the Time to the contrary whereof the Memory of Man is not, made his certain firſt Bill of Exchange in Writing ſubſcribed with his own Hand, bearing Date the ſame Day and Year, and directed the ſaid Bill of Exchange to one *J. H.* (the ſaid *J. H.* then being a Perſon trading, merchandizing, and uſing Commerce to foreign Parts, namely, at) by which ſaid Bill of Exchange the ſaid *T. M.* required the ſaid *J. H.* Twenty-one Days after Sight thereof, to pay his ſaid firſt Bill of Exchange to the ſaid *J. S.* (by the Name of *J. S.* Merchant at *London*) or Order, 112*l.* 5*s.* Value of him, with or without Advice from the ſaid *T. M.* which ſaid Bill of Exchange afterwards, that is to ſay, on the 15th Day of *May* in the Year of our Lord aforeſaid, at aforeſaid, was ſhewn to the ſaid *J. H.* for his Acceptance thereof, and the ſaid *J. H.* did not accept the ſaid Bill, but then and there refuſed to accept the ſame, of which the ſaid *T. M.* afterwards, that is to ſay, on the fifteenth Day of *June* in the Year of our Lord laſt mentioned, at *London* aforeſaid in the Pariſh and Ward aforeſaid, had Notice, and by reaſon of the Premiſſes, and alſo according to the

Uſage

Uſage and Cuſtom of Merchants, he the ſaid *T. M.* was and became liable to pay unto the ſaid *J. S.* the ſaid Sum of 112 *l.* 5 *s.* in the ſaid Bill of Exchange mentioned; and being ſo liable, he the ſaid *T. M.* afterwards, that is to ſay, on the ſame Day and Year laſt mentioned, at *London* aforeſaid in the Pariſh and Ward aforeſaid, undertook, and to the ſaid *J. S.* then and there faithfully promiſed, that he the ſaid *T. M.* would well and faithfully pay and ſatisfy to the ſaid *J. S.* the ſaid 112 *l.* 5 *s.* in the ſaid Bill of Exchange mentioned: *Nevertheleſs*, &c.

It is uſual and neceſſary to lay diverſe Counts in one Declaration, where the Plaintiff has various Demands againſt the Defendant, as on a Promiſſory Note, for Goods ſold, Money lent, *&c.* and even where he has but one Demand; as, ſuppoſe for Goods ſold and delivered, it will be proper to lay two Counts, as an *Indebitatus aſſumpſit*, and a *Quantum valebant*, whereupon if he fails of proving the Price agreed on, he may prevail on the *Quantum valebant* upon proving the Delivery of the Goods, and the Value of them at that Time; and as to the Promiſe in ſuch Caſes there is no Occaſion to prove it; the Law implies it upon proof of the Debt.

Borret.

Hilary *Term in the Eleventh Year of the Reign of* George *the Second.*

Middleſex, *to wit*, R. G. late of the Pariſh of St. *Andrew*, *Holborn*, in the County of *Middleſex*, Druggiſt, was attached to anſwer *S. N.* of a Plea of Treſpaſs on the Caſe: And whereupon the ſaid *S. N.* by *L. R.* his Attorney complains, That whereas the ſaid *R. G.* on the Tenth Day of *December* in the Eleventh Year of his preſent Majeſty's Reign, at *Weſtminſter* in the County of *Middleſex*, made his Note in Writing ſubſcribed with his own Hand, commonly called a Promiſſory Note, bearing Date the ſame Day and Year, by which ſaid Note the ſaid *R. G.* promiſed to pay to the ſaid *S. N.* or his Order, Ten Days after the Date of the ſaid Note, the Sum of Fifty Pounds, for Value received by him the ſaid *R. G.* By reaſon whereof, and alſo by Force of the Statute in ſuch Caſes made and provided, the ſaid *R. G.* became liable to pay to the ſaid *S. N.* the ſaid Sum of 50*l.* in the ſaid Note mentioned, according to the Tenor and Effect of the ſaid Note; and being ſo liable, the ſaid *R. G.* in Conſideration thereof, afterwards, *to wit*, on the ſame Day and Year, at *Weſtminſter* aforeſaid in the County aforeſaid, undertook, and then

On a promiſſory Note.

then and there faithfully promiſed the ſaid *S. N.* that he the ſaid *R. G.* would well and truly pay to the ſaid *S. N.* the ſaid 50 *l.* in the ſaid Note mentioned, according to the Tenor and Effect of the ſaid Note. *And whereas* the ſaid *R. G.* afterwards, on the firſt of *January* in the Year aforeſaid, at *Weſtminſter* aforeſaid in the County aforeſaid, was indebted to the ſaid *S. N.* in 100 *l.* of lawful Money of *Great Britain*, for diverſe Goods, Wares and Merchandizes, by the ſaid *S. N.* before that Time ſold and delivered to the ſaid *R. G.* at his ſpecial Inſtance and Requeſt; and being ſo indebted, the ſaid *R. G.* in Conſideration thereof, afterwards, *to wit*, the Day and Year laſt above mentioned, at *Weſtminſter* aforeſaid in the County aforeſaid, undertook, and then and there faithfully promiſed the ſaid *S. N.* that he the ſaid *R. G.* would well and truly pay the ſaid 100 *l.* to the ſaid *S. N.* when he the ſaid *R. G.* ſhould be thereunto required. *And alſo whereas* afterwards, *to wit*, the Day and Year laſt above mentioned, at *Weſtminſter* aforeſaid in the County aforeſaid, in Conſideration that the ſaid *S. N.* had before that Time ſold and delivered to the ſaid *R. G.* at his like ſpecial Inſtance and Requeſt, diverſe other Goods, Wares and Merchandizes, he the ſaid *R. G.* undertook, and then and there faithfully promiſed the ſaid *S. N.* that he the ſaid *R. G.* would, when he ſhould be thereunto required, well and truly pay to the

Indeb. aſſ. *for Goods ſold and delivered.*

Quantum valebant *thereon.*

the ſaid *S. N.* ſo much Money as the Goods, Wares and Merchandizes laſt abovementioned were at the Time of the Sale and Delivery thereof reaſonably worth. And the ſaid *S. N.* in Fact ſaith, That the Goods, Wares and Merchandizes laſt above mentioned were, at the Time of the Sale and delivery thereof, reaſonably worth other 100*l.* of like lawful Money of *Great Britain*, to to wit, at *Weſtminſter* aforeſaid in the County aforeſaid, of which the ſaid *R. G.* then and there had Notice. *And alſo whereas* the ſaid *R. G.* afterwards, *to wit*, on the Day and Year laſt above mentioned, at *Weſtminſter* aforeſaid in the County aforeſaid, accounted together with the ſaid *S. N.* concerning diverſe Sums of Money before that Time due, and unpaid by the ſaid *R. G.* to the ſaid *S. N.* And the ſaid *R. G.* was upon the ſaid Account then and there found in Arrear to the ſaid *S. N.* in 76*l.* 12*s.* 6*d.* of like lawful Money of *Great Britain*; and the ſaid *R. G.* being ſo found in Arrear, in Conſideration thereof afterwards, *to wit*, on the Day and Year laſt above mentioned, at *Weſtminſter* aforeſaid in the County aforeſaid, undertook, and then and there faithfully promiſed the ſaid *S. N.* that he the ſaid *R. G.* would well and truly pay the ſaid 76*l.* 12*s.* 6*d.* to the ſaid *S. N.* when he the ſaid *R. G.* ſhould be thereunto required: *Neverthelefs* the ſaid *R. G.* not at all regarding his ſaid ſeveral Promiſes and Undertakings made in Form afore-

Inſimul computaſſet.

Breach.

aforeſaid, but contriving and fraudulently intending craftily and ſubtilly to Deceive and Defraud the ſaid *S.N.* in this Behalf, hath not paid to the ſaid *S.N.* the ſeveral Sums of Money aforeſaid, or any Part thereof, (although afterwards, *to wit*, on the Day and Year laſt above mentioned, and often afterwards, at *Weſtminſter* aforeſaid in the County aforeſaid, he was thereunto required by the ſaid *S. N.*) but hath hitherto intirely refuſed, and ſtill doth refuſe, to pay the ſame, to the Damage of the ſaid *S. N.* of 200*l.* and thereupon he brings Suit, *&c.*

In an *Inſimul computaſſet* the Plaintiff muſt, in his Declaration, lay the very Day of the Account, and the Sum agreed upon by both Parties to be due.

Thomſon.

Hilary *Term in the Twelfth Year of the Reign of King* George *the Second.*

Indeb. aſſ. *for the Uſe and Occupation of a Houſe.*

Middleſex, *to wit*, L. *K.* late of *Weſtminſter* in the County of *Middleſex*, Widow, was attached to anſwer *J. B.* Eſq; of a Plea of Treſpaſs upon the Caſe, *&c.* and whereupon the ſaid *J.* by *S. H.* his Attorney complains, That *whereas* the ſaid *L.* on the firſt Day of *January*, in the Year of our Lord one Thouſand ſeven Hundred and thirty-eight, at *Weſtminſter* afore-

aforeſaid, was indebted to the ſaid *J.* in the Sum of eight Pounds and fifteen Shillings of lawful Money of *Great Britain*, for the Uſe, Occupation and Enjoyment of one Meſſuage, with the Appurtenances, of the ſaid *J.* ſituate, ſtanding and being in *Weſtminſter* aforeſaid, for a long Space of Time then paſt, that is to ſay, for the Space of one Quarter of a Year then paſt, by the ſaid *L.* by the Permiſſion of the ſaid *J.* and by, from and under the ſaid *J.* at the ſpecial Inſtance and Requeſt of the ſaid *L.* had and enjoyed, and being ſo indebted, ſhe the ſaid *L.* in Conſideration thereof, that is to ſay, on the ſame Day and Year aforeſaid, at *Weſtminſter* aforeſaid, undertook, and to the ſaid *J.* then and there faithfully promiſed to pay to him the ſaid Sum of Money, when ſhe the ſaid *L.* ſhould be thereunto afterwards required: *And whereas alſo* the ſaid *L.* afterwards, that is to ſay, on the ſame Day and Year aforeſaid, at *Weſtminſter* aforeſaid, in Conſideration that the ſaid *J.* at the ſpecial Inſtance and Requeſt of the ſaid *L.* had permitted and ſuffered the ſaid *L.* to have, occupy, poſſeſs and enjoy a certain other Meſſuage, with the Appurtenances, of the ſaid *J.* ſituate, ſtanding and being in *Weſtminſter* aforeſaid, for a long Space of Time then paſt, that is to ſay, for the Space of one Quarter of a Year then paſt, undertook, and to the ſaid *J.* then and there faithfully promiſed

Quantum Meruit *thereon.*

to pay to him ſo much Money as he had reaſonably deſerved to have from the ſaid *L.* for the ſame; and the ſaid *J.* avers, that he had reaſonably deſerved to have from the ſaid *L.* for the ſame another Sum of eighty Pounds and fifteen Shillings of like lawful Money; that is to ſay, at *Weſtminſter* aforeſaid, whereof the ſaid *L.* afterwards, that is to ſay, on the ſame Day and Year at *Weſtminſter* aforeſaid had Notice: *And whereas* the ſaid *L.* afterwards, that is to ſay, on the ſame Day and Year, at *Weſtminſter* aforeſaid, was indebted to the ſaid *J.* in the further Sum of ten Pounds of like lawful Money, for the like Sum of Money by the ſaid *J.* before that Time, at the ſpecial Inſtance and Requeſt of the ſaid *L.* and to the Uſe of the ſaid *L.* paid, laid out and expended; and being ſo indebted, ſhe the ſaid *L.* afterwards, that is to ſay, on the ſame Day and Year, at *Weſtminſter* aforeſaid, in Conſideration thereof undertook, and faithfully promiſed the ſaid *J.* that ſhe would well and truly content and pay him the ſaid ten Pounds laſt mentioned, whenever afterwards ſhe the ſaid *L.* ſhould be thereto required: *Nevertheleſs* the ſaid *L.* not regarding her ſaid ſeveral Promiſes and Undertakings ſo made as aforeſaid, but contriving and fraudulently intending to deceive and defraud the ſaid *J.* in this Behalf, hath not paid to him the ſaid ſeveral Sums of Money, or any of them, or any Part

Indeb. Aſſ. *for Money laid out.*

Breach.

Part thereof, although to pay the ſame to him the ſaid *J.* ſhe the ſaid *L.* afterwards, that is to ſay, on the ſame Day and Year aforeſaid, at *Weſtminſter* aforeſaid, was requeſted by the ſaid *J.* but the ſaid *L.* to pay the ſame to him, hath hitherto refuſed, and doth yet refuſe, to the Damage of the ſaid *J.* of ten Pounds; and thereof he brings Suit, *&c.*

Cooke.

Eaſter *Term in the Eleventh Year of the Reign of King* George *the Second.*

London, *W. H.* late of *London*, Woollen-Draper, was attached to anſwer *J. B.* of a Plea of Treſpaſs on the Caſe; and whereupon the ſaid *J. B.* by *J. W.* his Attorney complains, that whereas the ſaid *W. H.* on the Twenty-firſt Day of *February* in the Eleventh Year of his preſent Majeſty's Reign, at *London* in Pariſh of St. *Mary Le Bow* in the Ward of *Cheap*, was indebted to the ſaid *J. B.* in 30 *l.* of lawful Money of *Great Britain*, as well for Work before that Time done and performed by the ſaid *J. B.* for the ſaid *W. H.* at his ſpecial Inſtance and Requeſt, as for diverſe Materials and neceſſary Things uſed in and about the ſaid Work before that Time found and provided by the ſaid *J. B.* at the like ſpecial Inſtance and Requeſt of the ſaid *W. H.*

Indeb. Aſſ. *for Work done and Materials found.*

And the ſaid *W. H.* being ſo indebted, in Conſideration thereof, afterwards, *to wit*, on the ſame Day and Year, at *London* aforeſaid in the Pariſh and Ward aforeſaid, undertook, and then and there faithfully promiſed the ſaid *J. B.* that he the ſaid *W. H.* would well and truly pay the ſaid 30*l.* to the ſaid *J. B.* when he ſhould be thereunto required: *And alſo whereas* afterwards, *to wit*, one the ſame Day and Year, at *London* in the Pariſh and Ward aforeſaid, in Conſideration that the ſaid *J. B.* had before that Time done and performed other Work for the ſaid *W. H.* at his like ſpecial Inſtance and Requeſt, and had found and provided diverſe other Materials and neceſſary Things uſed in and about the ſaid laſt mentioned Work, he the ſaid *W. H.* undertook, and then and there faithfully promiſed the ſaid *J. B.* that he the ſaid *W. H.* would, when he ſhould be thereunto required, well and truly pay to the ſaid *J. B.* ſo much Money as he therefore reaſonably deſerved to have: And the ſaid *J. B.* in Fact ſaith, that he did therefore reaſonably deſerve to have of the ſaid *W. H.* other 30*l.* of like lawful Money of *Great Britain*, to wit, at *London* aforeſaid in the Pariſh and Ward aforeſaid, of which the ſaid *W. H.* then and there had Notice: *Nevertheleſs*, &c.

Quantum Meruit *thereon.*

Borret.

Borrett.

Hilary *Term in the Sixth Year of the Reign of King* George *the Second.*

Southampton, *to wit,* *J. S.* late of *Croudall* in the ſaid County of *Southampton,* Yeoman, was attached to anſwer *R. D.* in a Plea of Treſpaſs on the Caſe, and whereupon the ſaid *R. D.* by *J. L.* his Attorney complains, That whereas the ſaid *R. D.* on the firſt Day of *October* in the ſixth Year of his preſent Majeſty's Reign, was ſeiſed, and is ſtill ſeiſed in his Demeſne as of Fee, of and in one Cloſe called the Kitchen-Garden, ſituate, lying and being in *Croudall* aforeſaid in the ſaid County of *Southampton,* to which ſaid Cloſe called the Kitchen-Garden, another Cloſe in the Poſſeſſion, Tenure or Occupation of the ſaid *J. S.* called the Hop-Garden, at *Croudall* aforeſaid in the ſaid County of *Southampton,* lies next and contiguous adjoins, between which ſaid Cloſe of the ſaid *R. D.* called the Kitchen-Garden, and the ſaid Cloſe in the Tenure or Occupation of the ſaid *J. S.* called the Hop-Garden, there now is, and Time out of Mind has been, certain Pales or Fences, which part and divide the ſaid Cloſes the one from the other. *And whereas* the ſaid *J. S.* and all Occupiers and Poſſeſſors of the ſaid Cloſe called the Hop-Garden, *For not repairing Fences.*

for the Time being, Time out of Mind were uſed and accuſtomed and ought to make, repair and amend the ſaid Pales and Fences between the ſaid Cloſe of the ſaid *R. D.* called the Kitchen-Garden, and the ſaid Cloſe of the ſaid *J. S.* called the Hop-Garden, with all neceſſary Reparations and Amendments, as often as need ſhould be or require, leſt any Cattle out of the ſaid Cloſe called the Hop-Garden into the ſaid Cloſe called the Kitchen-Garden ſhould eſcape and enter, and do Damage there: *Nevertheleſs* the ſaid *J. S.* not ignorant of the Premiſes, but contriving and fraudulently intending the ſaid *R. D.* in this behalf unjuſtly to damnify, and to deprive him of the whole Benefit, Profit and Advantage of the ſaid Cloſe called the Kitchen-Garden, afterwards, *to wit*, on the ſaid firſt Day of *October* in the ſaid ſixth Year of his preſent Majeſty's Reign, and from thence to the firſt Day of *January* in the ſaid ſixth Year of his ſaid preſent Majeſty's Reign, the Pales and Fences ſeparating and dividing the ſaid Cloſes called the Kitchen-Garden and the ſaid Cloſe called the Hop-Garden one from the other as aforeſaid, permitted to remain and continue ruinous, broken, and in Decay for want of repairing the ſame; by Means whereof the Cattle, Hogs and Sheep of the ſaid *J. S.* and of diverſe other Perſons to the ſaid *R. D.* unknown, on the ſaid firſt Day of *October*, and

and on ſeveral Days and Times between the ſaid firſt Day of *October* and the ſaid firſt Day of *January* in the ſaid ſixth Year of his ſaid preſent Majeſty's Reign, out of the ſaid Cloſe of the ſaid *J. S.* called the Hop-Garden, into the ſaid Cloſe of the ſaid *R. D.* called the Kitchen-Garden, broke and entered, and the Graſs, Corn, Barley, Beans, Peaſe, Turnips, Carrots and Cabbages there then lately growing and being, to the Value of nine Pounds and nineteen Shillings, eat, trod down, and conſumed; by means whereof the ſaid *R. D.* the whole Benefit, Profit, and Advantage of his ſaid Cloſe called the Kitchen-Garden, for all that Time, *to wit*, from the ſaid firſt Day of *October* in the ſaid ſixth Year of his ſaid preſent Majeſty's Reign to the ſaid firſt Day of *January* in the ſaid ſixth Year of his ſaid preſent Majeſty's Reign, wholly loſt and was deprived of; whereupon the ſaid *R. D.* ſays that he is wronged, and hath Damage to the Value of nine Pounds and nineteen Shillings; and therefore brings his Suit.

Southampton, *T. W.* late of *Chriſt-Church* in the County of *Southampton*, Gentleman, was attached to anſwer *J. P.* of a Plea, wherefore with Force and Arms he broke the Cloſe of the ſaid *J. P.* at *L.* in the County aforeſaid, and his Graſs and Herbs to the Value of 20 *l.* there lately growing, with certain Cattle

Treſpaſs. Breaking Plaintiff's Cloſe, &c.

grazed, trampled on and conſumed, and did him other Injuries, to the great Damage of the ſaid *J. P.* and againſt the Peace of our Lord the preſent King; and whereupon the ſaid *J. P.* by *J. G.* his Attorney complains, that the ſaid *T. W.* on the firſt Day of *June* in the Eleventh Year of his preſent Majeſty's Reign, with Force and Arms, *&c.* broke the Cloſe of the ſaid *J. P.* at *L.* in the County aforeſaid, and the Graſs, Corn, Barley, Beans, Peaſe, Turnips, Carrots and Cabbages, to the Value of 10 *l.* there then lately growing, with certain Cattle, *to wit*, with Horſes, Oxen, Cows, Hogs and Sheep, grazed, trampled on and conſumed, and other Injuries, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* and whereupon he ſays that he is injured, and hath Damage to the Value of twenty Pounds; and thereupon he brings Suit, *&c.*

Cooke.

Michaelmas *Term in the Eleventh Year of King* George *the Second.*

Aſſault. Middleſex, *to wit*, *J. M.* late of, *&c.* was attached to anſwer *J. H.* of a Plea, wherefore with Force and Arms he aſſaulted the ſaid *J. H.* at *Weſtminſter* in the County of *Middleſex*, and beat, wounded and ill-treated him, ſo that his Life was deſpaired of, and other Injuries did

to

to him, to the great Damage of the ſaid *J. H.* and againſt the Peace of our Lord the preſent King, *&c.* And whereupon the ſaid *J. H.* by *J. C.* his Attorney, complains, that the ſaid *J. M.* on the Day of in the Year of his preſent Majeſty's Reign, with Force of Arms, *to wit*, with Swords, Staves and Knives, aſſaulted the ſaid *J. H.* at *Weſtminſter* in the County of *Middleſex*, and beat, wounded, and treated him ill, ſo that his Life was deſpaired of; and other Enormities, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* wherefore he ſays that he is injured, and hath Damage to the Value of 50*l.* and thereupon he brings Suit, *&c.*

Surry, *to wit*, *J. T.* late of, *&c.* Brewer, was attached to anſwer *W. B.* of a Plea of Treſpaſs on the Caſe; and whereupon the ſaid *W. B.* by *L. R.* his Attorney complains, that whereas the ſaid *W. B.* on the Tenth Day of *December* in the Fourteenth Year of his preſent Majeſty's Reign, at *Kingſton* in the County of *Surry*, was poſſeſſed of the following Goods and Chattels, *to wit*, (*here inſert the Goods*) to the Value of one Hundred Pounds, as of his own proper Goods and Chattels; and being ſo thereof poſſeſſed the ſaid *W. B.* caſually loſt the ſaid Goods and Chattels out of his Hands and Poſſeſſion; which ſaid Goods and Chattels afterwards, *to wit*, on the *Trover.*

the ſaid Tenth Day of *December* in the Fourteenth Year aforeſaid, at *Kingſton* aforeſaid in the County aforeſaid, came by finding to the Hands and Poſſeſſion of the ſaid *J. T.* *Neverthelefs* the ſaid *J. T* knowing the ſaid Goods and Chattels to be the Goods and Chattels of the ſaid *W. B.* and to him of Right to belong and appertain, yet contriving and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid *W. B.* of the ſaid Goods and Chattels, has not delivered the ſaid Goods and Chattels to the ſaid *W. B.* (although often required) but afterwards, *to wit*, on the Tenth Day of *January* in the Fourteenth Year aforeſaid, at *Kingſton* aforeſaid in the County aforeſaid, converted the ſaid Goods and Chattels to his own proper Uſe, to the Damage of the ſaid *W. B.* of 200 *l.* and thereupon he brings Suit, *&c.*

See further Precedents among the Pleadings at the End of the Book.

Money

Money, &c. brought into Court.

THE Intent and Conſequence of bringing Money into Court, will appear by the following Rule.

Thomſon.

Michaelmas *Term in the Thirteenth Year of King* George *the Second.*

D. Againſt *R. Tueſday, Nov.* 13. It is ordered, That if the Defendant ſhall pay to the Plaintiff, or to his Attorney or Agent, Twenty-four Pounds and ten Shillings, together with his Coſts to be taxed by Mr. Prothonotary *Thomſon*; and if the Plaintiff ſhall accept thereof, then all further Proceedings in this Action ſhall be ſtayed; but if the Plaintiff ſhall refuſe to accept thereof, the Defendant ſhall immediately bring the ſaid Twenty-four Pounds and ten Shillings into Court, and plead the General Iſſue; and if upon the Trial to be had the Jury ſhall not aſſeſs more Damages to the Plaintiff than the ſaid Twenty-four Pounds and ten Shillings, then the Plaintiff may have out of Court the ſaid Twenty-four Pounds and ten Shillings, yet he ſhall have no Coſts, but ſhall pay to the Defendant, or to his Attorney or Agent, Coſts to be taxed by the

Rule for bringing Money into Court.

the ſaid Prothonotary. But if upon the Trial to be had the Jury ſhall aſſeſs more Damages to the Plaintiff than the ſaid Twenty-four Pounds and ten Shillings, then Judgment ſhall be entered for the Plaintiff upon that Verdict, and the Plaintiff ſhall have that Money out of Court towards Satisfaction of the Damages in that Part aſſeſſed for the Plaintiff.

On the Motion of Serj. *A.* for the Defendant. *By the Court.*

Paramor.

Money not to be brought into Court where the Plaintiff is an Executor or Adminiſtrator.

Where the Plaintiff is an Executor or Adminiſtrator, Money may not be brought into Court; but as the Reaſon given is, that an Executor or Adminiſtrator is not by Law to pay Coſts, *Quære* therefore, Whether Money may not be brought into Court, if the Action brought by the Executor or Adminiſtrator be ſuch an Action as he might have brought in his own Right, and in which he need not have named himſelf Executor or Adminiſtrator; for in ſuch an Action he will be liable to pay Coſts on a Nonſuit, or the like.

May in Debt for Rent.

In Debt for Rent Money may be brought into Court.

In Replevin.

In Replevin and Avowry for Rent the Plaintiff was allowed to bring Money into Court.

In

In Covenant and Breach for Non-payment of Rent, and for not repairing, *&c.* it was moved to bring in ſo much for the Rent, and that as to the other Breach the Plaintiff might proceed as he thought fit, and allowed. *Salk.* 597. *In Covenant. Money brought in on one Breach only, viz. for Non-payment of Rent.*

In Trover, Goods not being ponderous have been allowed to be brought into Court; but where they have been ponderous, the Plaintiff has been ordered to ſhew Cauſe why he ſhould not accept them. *Trover.*

The Defendant may be admitted to bring Money into Court after the Rule to plead is out, but not after he has pleaded. *When Money may be brought into Court.*

The Court will not give the Defendant Liberty to bring Money into Court on ſome of the Counts in the Declaration, and demur to the reſt; for the Reaſon of making the Rule for bringing Money into Court, is to prevent Vexation, and make an End of the Cauſe. *Defendant ſhall not bring Money in to Part, and demur to the reſt of the Declaration.*

If a regular Judgment be ſet aſide on Payment of Coſts, pleading an iſſuable Plea, *&c.* the Defendant ſhall not have Leave to bring Money into Court. *Nor after a regular Judgment ſet aſide.*

The Defendant ſhall not have Leave to plead double, and bring Money into Court; for in ſuch Caſe, he muſt plead the General Iſſue. *Nor on a double Plea.*

The Defendant had brought Money into Court on the common Rule; the Plaintiff would not accept the Money, but proceeded to Trial, and upon the Trial was nonſuited; and the Defendant moved in *Tho' Plaintiff nonſuited, Defendant cannot have the Money back.*

the

the Treasury, That in regard the Plaintiff was out of Court by the Nonsuit, he might have the Money back, and produced the *Postea*. The Judges on Consideration were of Opinion, that the Defendant by bringing the Money into Court had admitted the Plaintiff to be intitled to it at all Events, and that therefore the Defendant could not have the Money back again: Afterwards the Plaintiff brought a new Action, and the Court made a Rule, that the Plaintiff might have the Money if he thought fit; but if not, that it should remain in Court on the common Rule in the new Action. *Lane* v. *Wilkinson*, *Mich.* 1 *Geo.* 2.

On new Action Leave for Plaintiff to have the Money, or let it lie on the common Rule.

The like Resolution, and Leave for the Defendant to bring in more Money on a new Action being brought. *Dickenson* v. *Tallowin*, *Trin.* 3 *Geo.* 2.

The like, and Leave to bring in more Money on the new Action.

Where the Plaintiff has refused the Money and proceeded, the Court has admitted him to take the Money out of Court on paying the Defendant his Costs subsequent to the bringing the Money into Court.

Plt. admitted to take the Money tho' had refused it, and proceeded.

If the Plaintiff refuses the Money, proceeds to Trial, recovers a less Sum and dies, his Executor shall have the Money.

Plt's Executor shall have the Money, tho' less Sum recovered.

Where the Plaintiff has refused to accept the Money, and recovered a less Sum, the Defendant has been allowed to take back the Money towards his Costs.

A less Sum being recovered, Def. had back the Money towards his Costs.

As to laying of Actions and changing the Venue.

Local Actions.

ALL real and mixed Actions, as Waſt, *Ejectione firmæ*, &c. are local, and muſt be laid in the County where the Land lies; and Actions of Treſpaſs *Quare clauſum fregit* muſt be laid in the County where the Wrong was done.

Tranſitory Actions.

Actions of Debt, Detinue, Aſſault, Annuity, Account, &c. are tranſitory, and may be laid in any County where the Plaintiff pleaſeth.

Caſe, Treſpaſs, Aſſault or Impriſonment, to be laid in their proper Counties, unleſs, &c.

Attornies laying Actions of Treſpaſs, &c. *in Foreign Counties, unleſs,* &c. *to be ſeverely puniſhed.*

But by a Rule of this Court, Actions upon the Caſe, Treſpaſs for Goods, Aſſault or Impriſonment, ariſing in any *Engliſh* County, are to be laid in their proper Counties, unleſs they ariſe where the Juſtices of *Niſi prius* ſeldom come. And becauſe Treſpaſs or Trover for Goods, Battery, Impriſonment and Slander muſt needs be notorious in what County they ariſe, the Attorney knowingly laying them out of their proper County (unleſs in the Caſes before expreſſed, or ſuch other Cauſe as ſhall be allowed by a Judge of the Court) ſhall be ſeverely puniſhed. *Mich.* 1654.

Venue *may be changed before Plea, on Motion and Affidavit.*

In a tranſitory Action *before the Defendant has pleaded*, on Motion and Affidavit made, (That the Plaintiff's Cauſe of Action (if any) aroſe in the County of *A.*

and

and not in the County of *B.* as laid in the Declaration, or elſewhere, out of the County of *A.*) the Court will change the *Venue* to the proper County; and the Defendant muſt plead to the new Action as he ſhould have done to the former without Delay; and the *Venue* may be changed in this Manner tho' the Defendant comes in on the Exigent. *Same Rule.*

Defendant to plead as before.

Venue *may be changed tho' the Defendant comes in on the Exigent.*

Venue *can't be changed before Appearance.*

The Defendant cannot move to change *Venue* in any Action, until his Appearance be entred. *Paſ.* 24 *Car.* 2.

Can't change the Venue *after Time to plead.*

If the Defendant obtains Time to plead, on pleading an iſſuable Plea, he cannot after that move to alter the *Venue*, but he may after Time given to put in Bail.

Nor after a Summons for Time to plead.

The Defendant cannot change the *Venue* even after a Summons taken out for Time to plead.

May after an Order for an Imparlance.

But the Defendant may have the *Venue* changed after a Judge's Order for an Imparlance, for that is a Matter of Right.

Not to be moved the laſt Day of Term.

If it be moved the laſt Day of the Term, the Court will not make a Rule; for the Plaintiff has no Time to ſhew Cauſe.

The Venue *not to be changed from a County to a City.*

The *Venue* may not be changed from a County at large to a City and County, as from the County of *Middleſex* to the County of the City of *York.*

Except London.

But the *Venue* has been changed from a County at large into *London.*

It may be changed from one City and County to another City and County, as from the City of *Norwich* to the City of *London.* *But may from one City and County to another.*

The Court will not change the *Venue* into a County Palatine, as from *Middlesex* to *Lancaſhire.* *Not to be changed into a County Palatine.*

The Court will not change the *Venue* in an Action of *Scandalum Magnatum*, nor where the Plaintiff ſues on a Bond, or promiſſory Note. *Nor in an Action of* Scan. Mag. *on a Bond or Promiſſory Note.*

If a Serjeant at Law, or an Attorney be Plaintiff, and ſues by *Capias*, and not by Writ of Privilege, the *Venue* may be changed, for he has thereby waived his Privilege, and is to be conſidered only as a common Perſon. *If a Serj. or Attorney ſues by* Capias, *the* Venue *may be changed.*

If an Attorney be Defendant, his Privilege alone is not a ſufficient Cauſe to change the *Venue.* *An Attorney Deft. not intitled to have the* Venue *changed.*

Pleas.

IF the Defendant anſwers the Plaintiff's Declaration, it is either by Plea or Demurrer, of both which there are two Sorts, General and Special. *Pleas.*

A General Plea, commonly called the General Iſſue, is a conciſe direct Anſwer to the Declaration; *General.*

A Special Plea contains ſome particular Matter either by Way of Excuſe, Juſtification, or the like. *Special.*

General Issues.

Non eſt factum *to a Debt on a Bond.*

And the ſaid *P.* by *L. R.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſaith, That he ought not to be charged with the ſaid Debt by Virtue of the ſaid Writing, becauſe he ſaith, That that Writing is not his Deed; and of this he puts himſelf upon the Country.

If on a Bill uſe the Word Bill *inſtead of the Word* Writing.

Nil Debet.

And the ſaid *R.* by *M. S.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſaith, That he does not owe to the ſaid *H.* the ſaid 100 *l.* or any Part thereof, in Form as the ſaid *H.* has above declared againſt him; and of this he puts himſelf upon the Country.

Non Aſſumpſit.

And the ſaid *C.* by *K. P.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays that he did not undertake in Manner and Form as the ſaid *G.* above complains againſt him; and of this he puts himſelf upon the Country.

Non Aff. *by Executors.*

And the ſaid *A. B.* and *C. D.* by *E. B.* their Attorney, come and defend the Force and Injury, when, *&c.* and ſay, that the ſaid *J. W.* [*the Teſtator*] in his Lifetime did not undertake in Manner and Form as the ſaid *R.* above complains againſt them; and of this they put themſelves upon the Country.

Not Guilty in Caſe.

And the ſaid *T. W.* by *J. S.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, That he is Not

Not guilty of the Premiſſes above laid to his Charge, as the ſaid *H.* above complains againſt him; and of this he puts himſelf upon the Country.

And ſays, that he is Not guilty of the ſaid Treſpaſs, as, *&c.* (*ut ſupra*). *In Treſpaſs.*

And ſays, that he is Not guilty of the ſaid Treſpaſs and Aſſault, as, *&c.* *In Aſſault.*

The Replication to each of theſe General Iſſues is this; And the ſaid *D.* doth ſo likewiſe, *i. e.* likewiſe puts himſelf upon the Country. *Replication to the General Iſſue.*

Special Pleas.

And the ſaid *W.* by *J. C.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, that the ſaid *E.* ought not to have her ſaid Action thereof againſt him, becauſe he ſays, that he at any Time within ſix Years before the Day of ſuing forth the original Writ of the ſaid *E.* did not undertake in Manner and Form, as the ſaid *E.* above complains againſt him; and this he is ready to verify; wherefore he prays Judgment, if the ſaid *E.* ought to have her ſaid Action thereof againſt him. Non Aſſumpſit infra ſex annos.

And the ſaid *E.* ſays, that ſhe by any Thing before alledged ought not to be barred from having her ſaid Action againſt the ſaid *W.* becauſe ſhe ſays, that the ſaid *W.* at ſome Time within ſix Years next before the Day of ſuing forth the *Replication.*

original Writ of the ſaid *E.* undertook in Manner and Form, as the ſaid *E.* above complains againſt him; and this ſhe prays may be inquired of by the Country; And the ſaid *W.* doth ſo likewiſe, *&c.*

Rejoinder.

Actio non accrevit infra ſex annos.

And the ſaid *S.* by *K. M.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, that the ſaid *V.* ought not to have his ſaid Action againſt him, becauſe he ſays the ſaid ſeveral Cauſes of Action did not accrue, nor did any of them accrue to the ſaid *V.* within ſix Years next before the Day of the obtaining the original Writ of him the ſaid *V.* and this he is ready to verify; wherefore he prays Judgment if the ſaid *V.* ought to have his ſaid Action thereof againſt him the ſaid *S.*

Replication.

And the ſaid *V.* ſays, that he by any Thing above alledged ought not to be barred from having his Action aforeſaid againſt him the ſaid *S.* becauſe he ſays, that the ſaid ſeveral Cauſes of Action did accrue to the ſaid *S.* within ſix Years next before the Day of obtaining the original Writ of him the ſaid *S.* to wit, on the aforeſaid 12th Day of *Auguſt* in the Year of our Lord 1738. at the Pariſh aforeſaid in the County aforeſaid; and this he prays may be inquired of by the Country; And the aforeſaid *S.* doth ſo likewiſe, *&c.*

Rejoinder.

Son Aſſault Demeſne.

And the ſaid *T.* by *J. W.* his Attorney comes and defends the Force and Injury, when, *&c.* and as to the Coming with Force and Arms, and whatever is againſt

the Peace of our now Lord the King, the ſaid *T.* ſays, that he is not Guilty thereof; and of this he puts himſelf upon the Country; And the ſaid *R.* does ſo likewiſe, *&c.* And as to the Reſidue of the ſaid Treſpaſs above ſuppoſed to be done the ſaid *T.* ſays, that the ſaid *R.* ought not to have or maintain his ſaid Action thereof againſt him, becauſe he ſays, that the ſaid *R.* at the Time in which the ſaid Treſpaſs is above ſuppoſed to be done at *L.* in the County aforeſaid, with Force and Arms, *&c.* aſſaulted the ſaid *T.* and then and there would have beaten, wounded and evilly treated the ſaid *T.* if he the ſaid *T.* had not then and there immediately defended himſelf againſt the ſaid *R.* by which the ſaid *T.* then and there defended himſelf againſt the ſaid *R.* and ſo the ſaid *T.* ſays, if any Damage or Hurt then and there happened to the ſaid *R.* it was from the Aſſault of the ſaid *R.* and in Defence of the ſaid *T.* and this the ſaid *T.* is ready to verify, wherefore he prays Judgment, if the ſaid *R.* ought to have or maintain his ſaid Action againſt him, *&c.*

Replication de injuria ſua propria.

And the ſaid *R.* ſays, that he by any Thing by the ſaid *T.* above by pleading alledged ought not to be precluded from having his ſaid Action againſt the ſaid *T.* for the Reſidue of the Treſpaſs, becauſe he ſays, that the ſaid *T.* on the Day and Year above mentioned, at *L.* aforeſaid in the County aforeſaid, of his proper Injury, without the Cauſe by the ſaid *T.* above

by pleading alledged, aſſaulted the ſaid *R.* and beat, wounded and evilly treated him in Manner and Form as the ſaid *R.* above complains thereof againſt the ſaid *T.* and this he prays may be inquired of by the Country. And the ſaid *T.* does ſo likewiſe, *&c.* Therefore as well to try the ſaid Iſſue, as the ſaid other Iſſue above joined between the ſaid Parties, the Sheriff is commanded, *&c.*

Rejoinder, Venire awarded.

Juſtification in Aſſault and Impriſonment.

And the ſaid *R. J. G.* and *A.* by *T. F.* their Attorney come and defend the Force and Injury, when, *&c.* and as to the coming with Force and Arms, and alſo the whole Treſpaſs aforeſaid, except the Aſſault and Impriſonment aforeſaid, they ſay they are Not guilty thereof; and of this they put themſelves upon the Country; and the ſaid *N.* does ſo likewiſe; and as to the reſt of the Treſpaſs aforeſaid above ſuppoſed to be done, they the ſaid *R. J. G.* and *A.* ſay, That the ſaid *N.* ought not to have his ſaid Action thereupon againſt them, becauſe they ſay that before the ſaid Time in which that Aſſault and Impriſonment is ſuppoſed to be done, to wit, in the Term of St. *Hilary* in the —— Year, *&c.* one *A. B.* duly ſued out of the Court of our Lord the King, before the King himſelf, (the ſaid Court then being at *Weſtminſter* in the County of *Middleſex*) a certain Writ of our ſaid Lord the King of *Latitat* againſt the ſaid *N.* by the Name of *N. F.* Gent. and againſt *V. E. J. C.* and *J. C.* in the ſaid Writ alſo

Writ iſſued out of B R. *againſt Plaintiff.*

alſo named, directed to the then Sheriff of the County of *Devon*, by which ſaid Writ the ſaid Sheriff of the ſaid County of *Devon*, was commanded to take the ſaid *N. F. V. E. J. C.* and *J. C.* if they ſhould be found in his Bailiwick, and to keep them ſafely, ſo that he might have their Bodies before our ſaid Lord the King at *Weſtminſter*, on *Monday* next after the Morrow of the *Aſcenſion* of our Lord then next enſuing, to anſwer the ſaid *A. B.* in a Plea of Treſpaſs, and alſo to a Bill of the ſaid *A.* againſt the ſaid *N.* for 60 *l.* of Debt, according to the Cuſtom of the Court of our ſaid Lord the King, before the King himſelf to be exhibited; which ſaid Writ afterwards, and before the Return thereof, to wit, on the ninth Day of *May* in the —— Year, *&c.* the ſaid *A. B.* at *S.* aforeſaid delivered to one Sir *E. S.* Bart. then Sheriff of the ſaid County of *D.* to be executed in due Form of Law. By Virtue of which ſaid Writ, the ſaid Sir *E. S.* then Sheriff of the County aforeſaid afterwards, to wit, on the —— Day of —— in the —— Year aforeſaid, and before the Return of the ſaid Writ, at *S.* aforeſaid made his certain Warrant in Writing, ſealed with the Seal of his Office, directed to the ſaid *R. J. G.* and *B.* and to one *R. E.* by which ſaid Warrant the ſaid then Sheriff on the Behalf of our Lord the King, commanded the ſaid *R. J. G. B.* and *R.*

Directed to the Sheriff of Devon.

Writ delivered to the Sheriff.

Warrant thereupon to Defendants.

and each of them, that they ſhould take the ſaid *N. F.* If he ſhould be found in his Bailiwick, and that, *&c.* ſo that the ſaid Sheriff might have his Body before our ſaid Lord the King at *Weſtminſter*, on the ſaid *Mouday* next after the Morrow of the *Aſcenſion* of our Lord, to anſwer the ſaid *A. B.* of the Plea and Bill aforeſaid, which ſaid Warrant afterwards, to wit, on the ſaid —— Day of —— in the —— Year aforeſaid, at *S.* aforeſaid, was delivered to the ſaid *R. J. G.* and *B.* to be executed according to Law; by Virtue of which ſaid Warrant they the ſaid *R. J. G.* and *B.* afterwards, and before the Return of the ſaid Writ, to wit, on the —— Day of —— in the —— Year aforeſaid, at *S.* aforeſaid, took and arreſted the ſaid *N. F.* and then and there had him in their Cuſtody by Virtue of the ſaid Warrant, and detained the ſaid *N.* as it was lawful for them to do by the Time in the ſaid Declaration above ſpecified, which ſaid Taking and Arreſting the ſaid *N.* in Form aforeſaid, and for the Cauſe aforeſaid, are the ſame Aſſault and Impriſonment, whereof the ſaid *N.* above complains, without this, that they the ſaid *R. J. G.* and *B.* or either of them, are guilty of any Aſſault and Impriſonment, otherwiſe, or in any other Manner before or after the ſaid —— Day of —— in the —— Year aforeſaid; and this they are ready to verify; wherefore they pray Judgment if the ſaid *N.* ought to have

By Virtue whereof they Arreſt the Plaintiff.

have is Action thereupon againſt them, &c. 3 *Lev.* 62, 63.

And the ſaid *T.* by *R. R.* his Attorney comes and defends the Force and Injury, when, &c. and ſays, that at the Time of making the ſaid ſeveral Promiſes and Undertakings he was within the Age of Twenty-one Years; and this he is ready to verify; wherefore he prays Judgment, if the ſaid *W.* ought to have his ſaid Action thereupon againſt him, &c. Infra Ætatem.

And the ſaid *W.* ſays, that he by any Thing before alledged ought not to be barred from having his ſaid Action againſt the ſaid *T.* becauſe he ſays, that the ſaid 20 *l.* expended and laid out by him the ſaid *W.* for the ſaid *T.* and the Taylor's Work done and performed by him the ſaid *W.* together with the Materials and neceſſary Things uſed in and about the ſaid Work, and in Form aforeſaid found and provided by the ſaid *W.* for the ſaid *T.* were laid out and expended, done and performed, found and provided by the ſaid *W.* at *London* aforeſaid, in the Pariſh and Ward aforeſaid, for the neceſſary Apparel and Cloathing of the Body of the ſaid *T.* his Degree requiring the ſame; and this he is ready to verify; whereupon he prays Judgment, and his ſaid Damages by Occaſion of the Premiſſes, to be adjudged to him, &c. *Replication, for neceſſary Apparel ſuitable to Defendant's Degree.*

And the ſaid *T.* ſays, that the ſaid 20 *l.* expended and laid out by the ſaid *W.* and the ſaid Taylor's Work done and performed by the ſaid *W.* together with the Materials and Things, neceſſary uſed in and about *Rejoinder, not for neceſſary Apparel,* &c.

about the ſaid Work, and in Form aforeſaid found and provided by the ſaid *W.* for the ſaid *T.* were not for the neceſſary Apparel and Cloathing of the Body of the ſaid *T.* in Manner and Form as the ſaid *W.* has thereupon above by replying alledged; and of this he puts himſelf upon the Country; and the ſaid *W.* likewiſe, *&c.*

Dureſs to a Bond.

And the ſaid *H. J.* by *S. A.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſaith, that the ſaid *S. C.* ought not to have or maintain his ſaid Action againſt him, becauſe he ſays, that he, at the Time of making the Writing aforeſaid, was impriſoned by the ſaid *S. C.* and others by his Contrivance, *to wit*, at *T.* aforeſaid in the County aforeſaid, and was there detained in Priſon until he the ſaid *H. J.* by Force and Dureſs of Impriſonment then and there made the ſaid Writing to the ſaid *S. C.* wherefore he prays Judgment if the ſaid *S.* ought to have or maintain his ſaid Action aforeſaid, *&c.*

Plea of Tender of 3 s. 6 d.

And the ſaid *J. C.* by *J. S.* his Attorney comes and defends the Force and Injury, when, *&c.* And as to the firſt Promiſe and Aſſumption in the ſaid Declaration mentioned, except as to 3 *s.* 6 *d.* Part of the ſaid Sum of 10 *l.* therein mentioned; and as to all the other Promiſes and Aſſumptions mentioned in the ſaid Declaration, the ſaid *J.* ſaith, that he did not aſſume upon himſelf in Manner and Form as the ſaid *M.* above thereof complains againſt him; and of this he puts himſelf upon

upon the Country; and as to the ſaid 3 *s.* 6 *d.* Part of the ſaid Sum of 10 *l.* in the ſaid firſt Promiſe and Aſſumption in the ſaid Declaration mentioned; and as to the ſaid firſt Promiſe and Aſſumption in that behalf, the ſaid *J.* ſaith, that the ſaid *M.* ought not to have or recover againſt him any more Damages, by reaſon of the not paying thereof, than the ſaid 3 *s.* 6 *d.* becauſe he ſaith, that after the ſaid firſt Promiſe and Aſſumption above ſuppoſed to be made, and before the Suing out the Original Writ of the ſaid *M.* to wit, on the firſt Day of *January* in the Year of our Lord 1735. at *Weſtminſter* aforeſaid, he the ſaid *J.* was ready and offered to pay, and tendered to the ſaid *M.* the ſaid 3 *s.* 6 *d.* which the ſaid *M.* then and there refuſed to accept from the ſaid *J.* And the ſaid *J.* further ſaith, that from the Time of making the ſaid firſt Promiſe and Aſſumption hitherto he hath been always ready, and ſtill is ready, to pay the ſaid 3 *s.* 6 *d.* to the ſaid *M.* and he brings the ſame here into Court, ready to be paid to the ſaid *M.* if ſhe is willing to receive the ſame; and this he is ready to verify; wherefore he prays Judgment, if the ſaid *M.* ought to have or recover any more Damages againſt him than the ſaid 3 *s.* 6 *d.* and ſo forth.

The Money to be paid into Court to the Prothonotary when the Plea is left, which ſhould be pleaded in 4 *Days.*

And

Replication.

And as to the ſaid Plea of the ſaid *J.* as to the firſt Promiſe (except as to 3 *s.* 6*d.* Part of the ſaid Sum of 10*l.*) and as to all the other Promiſes mentioned in the ſaid Declaration, the ſaid *M.* ſaith, that the ſaid *J.* did promiſe and undertake in ſuch Manner and Form as the ſaid *M.* hath above complained againſt him the ſaid *J.* and of this ſhe likewiſe puts herſelf upon the Country; and as to the ſaid 3 *s.* 6 *d.* Part of the ſaid 10*l.* in the firſt Promiſe mentioned, and in Bar pleaded to be tendered as above, the ſaith *M.* ſaith, that by reaſon of any Thing by the ſaid *J.* in pleading alledged ſhe ought not to be precluded from having her ſaid Damages therefore againſt him the ſaid *J.* becauſe ſhe ſaith that he the ſaid *J.* did not at any Time before the Suing out of the ſaid Original Writ of the ſaid *M.* offer to pay or tender unto the ſaid *M.* the ſaid Sum of 3 *s.* 6 *d.* as the ſaid *J.* hath above in his Pleading alledged; and this ſhe prays may be inquired of by the Country, *&c.*

Plea of Miſnomer.

And *Thomas Merriton*, who is impleaded by the Name of *Thomas Moreton*, in his proper Perſon comes and defends the Force and Injury, *&c.* and ſaith, That he is now, and always was called and known by the Surname of *Merriton*, and not *Moreton*, as by the ſaid Writ and Declaration is above ſuppoſed; and this he is ready to verify; wherefore he prays Judgment of the ſaid Writ, and that the ſaid Writ may be quaſhed, *&c.*

And

And *John Smith*, late of the Pariſh of St. *James* within the Liberty of *Weſtminſter* in the County aforeſaid, Yeoman, againſt whom the ſaid *Ralph Bigland* hath brought his ſaid Writ, by the Name of *John Smith* late of the Pariſh of St. *James* within the Liberty of *Weſtminſter* in the County aforeſaid, Cheeſemonger, in his proper perſon comes and defends the Force and Injury, &c. and ſaith, that on the Day of ſuing out the ſaid Original Writ, and long before, he was, and yet is a Yeoman, *and not of any Myſtery, Trade or Profeſſion*; without this, that the ſaid *John Smith* on the Day of ſuing out the ſaid Original Writ, or at any time before or ſince, was a Cheeſemonger; and this he is ready to verify; wherefore he prays Judgment of the ſaid Writ, and that the ſaid Writ may be quaſhed.

Abatement. Defendant not rightly deſcribed.

Def. ought regularly to ſhew his Myſtery, not his Degree, but being of no Trade theſe Words are intended to anſwer that Objection.

The Defendant is to deliver his Plea in writing [on Paper ſtamped with a double Penny Stamp] to the Plaintiff's Attorney. *Mich.* 1654.

Plea to be delivered in Writing to the Plaintiff's Attorney.

And if there be no ſuch Attorney to be found, or being found refuſeth to accept it, then the Plea may be left in the Office.

When to be left in the Office.

Same Rule.

Where a Rule to plead has been given, and the Defendant obtains an Order for Time to plead till the firſt Day of the next Term, the Plaintiff may ſign Judgment in Default of the Defendant's Pleading, without giving a new Rule.

Rule to plead, and an Order for Time. Plt. need not give a new Rule.

Where

The like where delayed by an Injunction.

Where the Plaintiff has given a Rule to plead, and has been delayed from ſigning Judgment by an Injunction out of *Chancery*, after the Injunction is diſſolved he may ſign Judgment without giving a new Rule.

Plea can't be delivered in the Country.

A Plea delivered to the Attorney in the Country is irregular, it muſt be delivered to the Agent in Town or left in the Office.

Nil debet *to* Aſſumpſit, *Plt. may ſign Judgment.*

If the Defendant pleads a falſe Plea, as *Nil Debet* to an Action on the Caſe upon *Aſſumpſit*, the Plaintiff may ſign Judgment.

No dilatory Plea to be received without Affidavit.

No dilatory Plea ſhall be received unleſs the Party offering the ſame do by Affidavit prove the Truth thereof, or ſhew ſome probable Matter to the Court to induce them to believe that the Fact of ſuch dilatory Plea is true. *Stat.* 4 & 5 *Annæ.*

Affidavit to Plea of Infancy.

A Plea of *infra Ætatem* ought to have an Affidavit annexed to verify the Truth of the Plea.

Plea in Abatement to be pleaded in four Days.

A Plea in Abatement muſt be pleaded within the firſt four Days after the Declaration is delivered or left in the Office, although no Rule to plead be given, or elſe the Defendant muſt within that Time procure a ſpecial Imparlance; and a Plea in Abatement otherwiſe pleaded is a mere Nullity, and the Plaintiff may ſign Judgment.

For want of Affidavit to Plea in Abatement Plaintiff may ſign Judgment.

If a Plea, which ought to be verified by Affidavit, has not an Affidavit annexed, the Plaintiff may *inſtanter*, without applying to the Court for Leave, ſign Judgment as tho' no Plea had been delivered.

If

If a Plea, which ought to be ſigned by a Serjeant, be delivered without a Serjeant's Hand, the Plaintiff may ſign Judgment as if no Plea had been delivered. *And if a Plea, which ought to have a Serj. Hand, be delivered without.*

The following Pleas do not require a Serjeant's Hand, *viz.* *What Pleas do not require a Serj. Hand.*

Comperuit ad Diem,
Son Aſſault,
Plene Adminiſtravit,
Riens per Diſcent,
Nul tiel Record,
Per Minas,
Solvit ad Diem,
Ne unques Executor,
Infra Ætatem.

The Demand of a Plea muſt be in Writing. *Demand of a Plea to be in Writing.*

The Plaintiff cannot ſign Judgment for want of a Plea, 'till the Afternoon of the Day after the Rule to plead is out. *When to ſign Judgment.*

Where the Defendant obtains a Judge's Order for Time to plead, the Plaintiff cannot ſign Judgment till the Afternoon of the Day after the Time given by the Order is expired; as if by the Order the Defendant has till *Monday* to plead, the Plaintiff can't ſign Judgment before *Tueſday* in the Afternoon. *When on a Judge's Order for Time to plead.*

A Summons for Time to plead ought not to be taken out after the Rule to plead is out; and if ſuch Summons be taken out and ſerved, 'tis no Stay of Proceedings. *No Summons to be taken out after Rule to plead is out.*

If the Defendant takes out a Judge's Summons for Time to plead, the Plaintiff cannot ſign Judgment 'till the Summons is diſcharged. *After Summons no Judgment till Summons diſcharged.*

A Plea of Tender is not an iſſuable Plea within the Meaning of a Judge's Order for *Plea of Tender.*

Time to plead, on pleading an iſſuable Plea; neither can a Plea of Tender be pleaded after Time obtained to plead.

Stat. of Limitations.

If Judgment be ſet aſide on Payment of Coſts, and pleading an iſſuable Plea, the Defendant cannot plead the Statute of Limitations; for it is not an iſſuable Plea within the Meaning of the Rule, for ſetting aſide the Judgment the Rule ſhould be on pleading the General Iſſue.

What Time the Def. has to plead after Oyer.

If the Defendant crave Oyer he ſhall have as many Days to plead after Oyer given, as he had to plead at the Time Oyer was demanded.

If Oyer be demanded after Rule to plead is out the Plaintiff may ſign Judgment notwithſtanding.

Within what Time the Def. ought to deliver Oyer of a Deed pleaded by him.

The Defendant pleaded a Releaſe, with a *Profert hic in Curia*, on the 12th of *November* the Plaintiff craved Oyer, and on the 14th ſigned Judgment, for want of Oyer being given him; and it was held that this Judgment was regularly ſigned, that from the 12th to the 14th was a reaſonable Time for the Defendant to give the Plaintiff Oyer, and that the Plaintiff had not need to apply to the Court to ſet aſide the Plea, for after Oyer craved by the Plaintiff the Defendant is bound to verify his Plea. *Blaxland* againſt *Burgis*, *Mich.* 7 *Geo.* 2.

Def may waive his ſpecial Plea, and plead the General Iſſue.

The Defendant may waive his ſpecial Plea, and plead the General Iſſue the ſame Term, without Payment of Coſts or Application to the Court.

Sed

Sed Q. if the Plaintiff has replied, whether the Defendant muſt not apply to the Court and pay Coſts?

After a Plea of Tender, and Money brought into Court, the Court will not admit the Defendant to withdraw his Plea and plead the General Iſſue. *Can't withdraw a Plea of Tender.*

Of Double Pleas.

DOuble Pleas allowed, *viz.*—*Non aſſumpſit*, and *Non aſſumpſit infra ſex Annos.* *Double Pleas allowed.*

Non aſſumpſit, and a Diſcharge under the Inſolvent Debtors Act.

In Replevin Leave given to avow two Matters, *viz.* a Juſtification of the Diſtreſs under a Leaſe for Years, and that the Goods diſtrained were not the Property of the Plaintiff.

In Treſpaſs *Non Cul.* and *Liberum Tenementum alterius.*

Solvit ad Diem and a mutual Debt.

Damage Feaſant, and under a Demiſe from the Defendant to the Plaintiff.

Damage Feaſant, and for Rent in Arrear.

Double Pleas denied, *viz.* — *Non aſſumpſit*, and a Releaſe, as contradictory. *Double Pleas denied.*

Non aſſumpſit, *Non aſſumpſit infra ſex Annos*, and Leave to bring Money into Court.

Non aſſumpſit and *Plene adminiſtravit*, having no Affidavit to verify the latter.

Solvit ad Diem, and *Riens per Diſcent*, the like.

Not Guilty and Satisfaction made, being contradictory.

Not Guilty, and Accord and Satisfaction, the like.

Not Guilty and Juſtification, the like.

Liberum Tenementum and Juſtification, the like.

Nil debet and *Nil habuit in Tenementis*, the latter may be given in Evidence.

Leave to plead double any Time before Judgment.

The Defendant may have Leave to plead double any Time before Judgment ſigned, though the Rule to plead be out, but not before Appearance.

Not after ſingle Plea.

After the Defendant has pleaded a ſingle Plea, he can't have Leave to add another.

Nor after Money brought into Court.

After the Defendant has paid Money into Court, he can't have Leave to plead double.

On double Plea, if Plt. hath Judgment in one, he can't enter a Noli Proſequi *as to the other.*

The Defendant, with Leave of the Court pleaded *Non aſſumpſit*, and *Non aſſumpſit infra ſex Annos*; to the latter the Plaintiff replied an Original: Iſſue was joined on *Nul tiel Record*, and Judgment for the Plaintiff; whereupon he executed a Writ of Inquiry, but did not proceed on the Iſſue of *Non aſſumpſit*. The Defendant moved to ſet aſide the Writ of Inquiry; the Plaintiff inſiſted he might enter a *Noli Proſequi* on the Iſſue of *Non aſſumpſit*, and take his Execution on the Iſſue that was found for him. The Defendant inſiſted both Pleas went to the whole Declaration; and

and if any one Iſſue was found for the Defendant, the Plaintiff was barred of his Demand. *Cur.* It is a Judgment only as to Part, and not upon the whole Proceeding, and the Inquiry could not be executed before the other Iſſue was tried. The Defendant has a double Defence given him, and if any one be found for him, he ſhall be excuſed, therefore this Writ of Inquiry is wrong; and if this way of Proceeding was to be allowed, there is an End of Pleading double. *Prior* v. Com. *Ilay* Exec. *Hil.* 7 *G.* 2.

Action on a Promiſſory Note, Double Plea, *viz.* *Non aſſumpſit*, and *Non aſſumpſit infra ſex Annos*: To the latter the Plaintiff replied on Original, and on *Nul tiel Record* had Judgment. But on Trial upon the *Non aſſumpſit* was nonſuited. On the Iſſue in which he had Judgment he executed a Writ of Inquiry, which the Defendant moved to have ſet aſide, and ſaid, that the two Pleas go to the Whole; and if either be found for the Defendant, the Plaintiff cannot recover. It was urged for the Plaintiff, that by the Statute for the Amendment of the Law, where ſeveral Matters are pleaded by the Defendant, if any be found for the Plaintiff, he ſhall recover. *Cur.* This is a Conſideration. Adjourned. *Poſtea* Writ of Inquiry ſet aſide. *Prior* v. Com. *Ilay* Exec. *Mich.* 8 *Geo.* 2.

If either found for the Def. the Plaintiff can't recover.

Def. to pay for a Copy of the Iſſue, and entring his Pleadings.

When Iſſue is joined, the Plaintiff delivers the Defendant's Attorney a Copy thereof on double Penny ſtamped Paper, he paying for the ſame after the Rate of 4 *d.* a Sheet, beſides the Duty; and for the Entry of his Plea, according to the Length, if the General Iſſue, only 2 *s.* and for filing his Warrant of Attorney 8 *d. v. poſtea* fol. 150. But note, if the Iſſue be of the ſame Term with the Declaration, and the Defendant has paid for one Copy of the Declaration, he is only to pay for a Copy of the Pleadings ſubſequent to the Declaration, for he is not obliged to pay for two Copies of the Declaration in the ſame Term.

Where Plt. appears for the Deft. he may charge it on the Back of the Iſſue.

If the Plaintiff enters the Appearance for the Defendant, he may charge for it on the Back of the Iſſue, and if the Defendant's Attorney will not pay it, he may ſign Judgment.

Deft's Attorney muſt pay for the Iſſue at all Events.

The Defendant's Attorney muſt pay for the Copy of the Iſſue at all Events, or the Plaintiff may ſign Judgment; and if it be overcharged, he may apply to the Court.

How if Deft. be a Priſoner, and no Attorney concerned.

But where the Defendant is a Priſoner, and no Attorney appears to be concerned for him, the Plaintiff cannot ſign Judgment for not paying for the Copy of the Iſſue.

Method of making up the Iſſue.

The Method of making up the Iſſue in this Court is the ſame with the Method uſed in the Court of *King's Bench*, when the Proceedings are by Original; and when the Proceedings in this Court are by Bill, the Iſſue begins with a Memorandum,

dum, as in the *King's Bench* on Proceedings by Bill. An Iſſue by Original begins thus.

Borret.

Trinity *Term* (*the Term the Iſſue is joined*) *in the* *Year of King* George *the Second.*

Middleſex, *to wit*, *A. B.* late of *Weſtminſter* in the County of *Middleſex*, Gentleman, was attached to anſwer *C. D.* of, *&c.* (*to the End of the Declaration*) and thereupon he brings Suit, and ſo forth.

Then begin a new Line, and enter the Pleadings to the End of the Iſſue, after which follows the Award of the *Venire* in this Form, ——It is therefore commanded to the Sheriff, that he cauſe to come here from the Day of, *&c.* (*ſome Return before the Day of Trial*) Twelve, *&c.* By whom, *&c.* And who neither, *&c.* To recognize, *&c.* Becauſe as well, *&c.*

Venire facias *awarded.*

See more of this among the Pleadings at the End of the Book.

In Country Cauſes the Iſſue muſt be delivered to the Agent in Town, and not to the Attorney in the Country; and where it has been agreed between the Country Attornies, that the Iſſue ſhould be delivered in the Country, and has been afterwards tendered to the Agent in Town,

In Country Cauſes Iſſue to be delivered to the Agent in Town, and not to the Country Attorney.

and not paid for, Judgment has been ſigned, and held regular. But where the Defendant has pleaded by his Country Attorney, the Iſſue may be tendered to the Country Attorney, and if not paid for by him, Judgment may be ſigned.

Except.

Attorney to enter his Warrant on Record.

Every Attorney ſhall enter his Warrant of Attorney in every Suit upon Record in Court, on Pain of 10*l.* and further Puniſhment by Impriſonment, at the Diſcretion of the Court. *Stat.* 32 *H.* 8. *c.* 30.

When to be filed.

Warrants of Attorney are to be filed of the Term wherein any Exigent is awarded, Demurrer or Iſſue joined, or Judgment entered, which ſhall firſt happen, and to be filed upon or before the Eſſoin-Day of every *Trinity-Term*, and within one and twenty Days after the End of every other Term. *Hill.* 14, 15 *Car.* 2.

Deft's Attorney, on receiving the Iſſue, to pay the Plt's Attorney the Fee for Filing his Warrant, otherwiſe Judgment.

Every Plaintiff's Attorney who ſhall proſecute any Cauſe to iſſue, ſhall, upon the Delivery of the Copy of ſuch Iſſue, receive of the Defendant's Attorney the Fee for Filing his Warrant therein; and in Caſe the Defendant's Attorney ſhall refuſe to pay for the ſame, the Plaintiff's Attorney may ſign his Judgment in like Caſe, as if the Defendant's Attorney had refuſed to pay for the Copy of the Iſſue, or the Entry of his Plea; and the Plaintiff's Attorney ſhall file as well the Defendant's as the Plaintiff's Warrant of Attorney. *Hill.* 2, 3 *Jac.* 2.

The

The Plaintiff's Attorney in any Action or Suit ſhall file his Warrant of Attorney with the proper Officer the ſame Term he declares, and the Attorney for the Defendant ſhall file his Warrant of Attorney, as aforeſaid, the ſame Term he appears, under the Penalties inflicted upon Attornies by any former Law, for Default of Filing their Warrants of Attorney. *Stat.* 4, 5 *Annæ.*

Plt's Attorney to file his Warrant the Term he declares, and the Deft's Attorney the Term he appears.

Great Inconveniencies having happened by Attornies neglecting to file their Warrants of Attorney, by which Judgments have been reverſed, and Plaintiffs loſt their Debts; It was ordered there that no Judgments whatſoever (except final Judgments upon *Poſteas*, Writs of Inquiry, and *Non pros'*) ſhall be ſigned by any of the Prothonotaries, unleſs the Stamp of the Clerk of the Warrants be impreſſed on the Paper, whereon ſuch Judgment is to be ſigned, whereby it may appear the Warrants of Attorney are duly filed. *Mich.* 5 *Geo.* 2.

No Judgment (except, &c.) to be ſigned before the Judgment-Paper be ſtamped by the Clerk of the Warrants.

The Plaintiff's Attorney, on delivering a Copy of the Declaration to the Defendant's Attorney, charges 8 *d.* for filing the Defendant's Warrant of Attorney, and which he generally files at the ſame Time he files the Plaintiff's Warrant, and on the ſame Piece of Parchment.

Theſe Warrants are to be wrote on Parchment in the following Form:

Hilary *Term in the Twelfth Year of King* George *the Second.*

Plaintiff's Warrant of Attorney.

Middleſex, *E. F.* puts in his Place *R. C.* his Attorney againſt *A. B.* late of, *&c.* Yeoman, in a Plea of Treſpaſs on the Caſe (*or otherwiſe, as the Action is*).

Defendant's Warrant of Attorney.

Middleſex, *A. B.* late of, *&c.* Yeoman, puts in his Place *N. F.* his Attorney, againſt *E. F.* in the Plea aforeſaid.

If the Defendant be deſcribed in the Pleadings with an *Alias dict.* or the Plaintiff or Defendant be an Executor or Adminiſtrator, he muſt be named in the Warrant of Attorney in the ſame Manner exactly as in the Pleadings.

The Nature of the Action muſt be expreſſed in the Warrant, according as the Caſe ſhall be; as thus: In a Plea of Debt. In a Plea of Treſpaſs. In a Plea of Treſpaſs on the Caſe. In a Plea of Treſpaſs and Ejectment of Farm. In a Plea of Treſpaſs and Aſſault. In a Plea of Treſpaſs, Aſſault and Impriſonment.

On the Back of the Iſſue you give Notice of Trial, thus:

Mr. *T. V.*

Notice of Trial. Take Notice of Trial in this Cauſe for the

the Sittings after this preſent *Michaelmas-Term*, at *Guildhall*, *London*.

Your humble Servant,

10 *Nov.* 1740. L. R. *Attorney for the Plaintiff.*

If the Trial is to be in *London* or *Middleſex*, (and the Defendant dwells within forty Miles of *London*) there muſt be eight Days Notice thereof given excluſive of the Day whereon the Notice is given. *Mich.* 1654. *Eight Days in* London *or* Middleſex.

If the Defendant lives above forty Miles from *London*, there muſt be fourteen Days Notice of ſuch Trial to be had in *London* or *Middleſex*, excluſive of the Day of the Notice. *Same Rule.* *When* 14 *Days in* London *or* Middleſex.

Of Trials in the Country there muſt be eight Days Notice given excluſive of the Day of Notice. *Same Rule.* *Eight Days in the Country.*

In all Caſes where there have been no Proceedings for four Terms, excluſive of the Term in which the laſt Proceeding was had, the Party who deſires to proceed again, ſhall give a Term's Notice to the other of ſuch Proceeding; ſuch Notice ſhall be given before the Eſſoin-Day of the fifth or other ſubſequent Term; a Judge's Summons, if no Order be made thereupon, ſhall not be deemed a Proceeding; but a Notice of Trial, tho' afterwards countermanded, ſhall be deemed a Proceeding within this Rule. *Paſch.* 13 G. 2. *A Term's Notice where no Proceeding for four Terms excluſive,* *To be given before the Eſſoin-Day of the Term.* *What deemed a Proceeding.*

Here-

Heretofore where the Plaintiff in Pleading concluded *ad Patriam* (to the Country) he could not give Notice of Trial till the Defendant had joined Iſſue, which he was not obliged to do till a four-day Rule for that Purpoſe was expired. But now in all Caſes where the Plaintiff concludes *ad Patriam*, the Defendant's Attorney muſt accept Notice of Trial on the Back of ſuch Pleadings, whether the ſame be delivered to the Defendant's Attorney or Agent, or left in the Office; and ſuch Notice ſhall be as effectual as if Iſſue had been joined. *Trin.* 2 *G.* 1.

Where the Plt. concludes ad Patriam, *the Deft. to accept Notice of Trial on the Back of the Pleading.*

Where the Plaintiff concludes at *Patriam*, and gives Notice of Trial on the Back of the Pleadings (purſuant to laſt Rule) if the Defendant does not join Iſſue before the Rule is out, then after Judgment obtained the Defendant's Attorney ſhall be obliged to accept of Notice of executing a Writ of Inquiry from the Time that the Notice of Trial was given on the Back of the Pleadings. *Hil.* 6 *Geo.* 1.

And if don't join in Iſſue, to accept of Notice of Inquiry from the Time of the Notice of Trial.

Notice of Trial, or of executing a Writ of Inquiry given to a Defendant when his Attorney is known, is not good Notice; but when his Attorney is not known, then the Notice may be given to the Defendant.

Notice of Trial not to be given to the Deft. if his Attorney be known.

In a Country Cauſe, Notice of Trial muſt be given to the Agent in Town, and not to the Attorney in the Country; but a Countermand of Notice of Trial may be given in the Country.

In a Country Cauſe, Notice of Trial to be given in Town; aliter *of Countermand.*

Where

Where the Plaintiff may give ſhort Notice of Trial, as where the Defendant has had Time given him to plead on taking ſhort Notice of Trial, the Plaintiff muſt give him as much Notice as he can.

Where the Plt. may give ſhort Notice, he muſt give as much as he can.

If the Plaintiff ought to give 14 Days Notice of Trial, if he was to proceed to Trial, and the Defendant intends to have the Cauſe tried by Proviſo, he muſt give the ſame Notice of Trial as the Plaintiff ſhould have done.

For Trial by Proviſo Def. muſt give the ſame Noitce as Plt. ſhould have done.

The next Thing to be done is to enter the Iſſue, and prepare the *Niſi Prius* Record for Trial, which muſt be ingroſſed on a Piece of Parchment ſtamped with a double Half Crown Stamp, which you muſt do in this Manner.

Of making up the Niſi Prius *Record.*

Borret.

Pleas at Weſtminſter *before Sir* John Willes, *Knight, and his Companions, Juſtices of our Lord the King of the Bench, of* Eaſter *Term in the Twelfth Year of the Reign of our Sovereign* George *the Second, by the Grace of God, of* Great Britain, France *and* Ireland *King, Defender of the Faith,* &c.

Roll .

Middleſex, *to wit,* C. L. late of, &c. Gentleman, was attached to anſwer R. R. of a Plea of Treſpaſs, on the Caſe; and

and whereupon the ſaid *R. R.* by *J. S.* his Attorney complains, That whereas, *&c.* (*to the End of the Iſſue and Award of the* Venire.)

Note; In the *Common Pleas* the *Placita* is wrote but once, except on the Death or Change of a Chief Juſtice, or on an old Record, in which Caſe you write a ſecond *Placita*, then you write the *Jurata* in this Manner.

Middleſex, *to wit*, THE Jury between *R. R.* Plaintiff, and *C. L.* late of, *&c.* Gentleman, in a Plea of Treſpaſs on the Caſe, are reſpited here until on the Morrow of the Holy *Trinity* (the Return of the *Habeas Corpora Juratorum*, and which ſhould be the next Return after the Day of Trial) unleſs Sir *John Willes*, Knight, the King's Chief Juſtice of the Bench, here aſſigned by Form of the Statute in that Caſe made and provided, ſhall come before, on *Tueſday*, the Day of [*the Day of the Sittings*] at *Weſtminſter*, in the great Hall of Pleas, there, commonly called *Weſtminſter Hall*, in the ſaid County of *Middleſex* (if in *London*, ſay, at the *Guildhall* of the City of *London* aforeſaid) for Default of the Jurors, becauſe none came: Therefore let the Sheriff have the Bodies of the ſeveral Perſons mentioned in the Panel annexed to the Writ of *Habeas Corpora Juratorum*. And be it known that the Juſtices here in Court in this ſame Term delivered a Writ thereupon to the

the Deputy of the Sheriff of the County aforeſaid, to be executed in Form of Law, *&c.*

If the Trial is to be had at the Aſſizes, the Form of the *Jurata* is as follows.

Lincoln, *to wit*, THE Jury between *R.R.* Plaintiff, and *C. L.* late of, *&c.* Gentleman, in a Plea of Treſpaſs on the Caſe, is reſpited here until on the Morrow of the Holy *Trinity*, unleſs our Lord the King's Juſtices, aſſigned to hold the Aſſizes in the County aforeſaid by Form of the Statute in that Caſe made and provided, ſhall come before on *(the Day the Aſſizes are to be held)* at *(the Place where they are to be held)* in the County aforeſaid, for Default of the Jurors, becauſe none came: Therefore, *&c.* (*as before.*) *For the Aſſizes.*

When the *Niſi Prius* Record is prepared, you are to carry it, and the Roll whereon you have entered the Iſſue, to the proper Prothonotary, who on being paid for the Entry will mark both the Record and Roll; then you go to the Clerk of the Treaſury, who will examine and ſee that the *Jurata* is rightly entered, and ſign and ſeal the Record.

No Record of *Niſi Prius* is to be ſigned before the Iſſue be entered upon the Roll. *Mich.* 1654. *Paſ.* 5 *W. & M.* *No Record of* Ni. Pri. *to be ſigned before Iſſue entered.*

And all Iſſues are to be entered of the Term they are joined. *Paſ.* 5 *W. & M.* *Iſſues to be entered the ſame Term they are joined.*

Every

In what Manner Records of Nisi Prius *are to be ingrossed.*

Every Record of *Nisi Prius* is to be ingrossed in a fair legible Character, and so entered on the Roll, the Beginning of every Pleading to be with a new Line, and the first Word in a greater Character than the rest; and in all Actions that have diverse Narrs Notice thereof must be given by Figures in the Margin of such Record of *Nisi Prius*; and all Records of *Nisi Prius* that shall be ingrossed in this Court are to be of the exact Breadth of the Rolls of the Court, and not broader or lesser. *Trin.* 29 *Car.* 2.

Within what Time they must make up for the Assizes.

Records of *Nisi Prius* for Trials at the Assizes shall be signed by the respective Prothonotaries, and signed and sealed by the Clerk of the Treasury within the Space of three Weeks next after the End of every *Hilary* Term, and of every *Trinity* Term, and not afterwards unless by special Order. *Trin.* 29 *Car.* 2.

No Record of N. Pri. *to be sealed, unless signed by the Clerk of the Warrants.*

The Clerk of the Treasury shall not sign or seal any Record of *Nisi Prius*, unless the same shall be first signed or stamped by the Clerk of the Warrants. *Hil.* 2, 3 *Jac.* 2.

The Form of a Venire Facias.

Venire Facias.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, &c. To the Sheriff of *M.* Greeting. We command you, that you cause to come before

our Juſtices at *Weſtminſter*, in one Month from the Day of *Eaſter*, Twelve free and lawful Men of the Body of your County, each of whom has Ten Pounds of Lands, Tenements or Rents by the Year at leaſt, by whom the Truth of the Matter may be better known, and who are in no ways of Kin, either to *L. R.* the Plaintiff, or to *N. P.* late of in your County, Gentleman [*if the Defendant be declared againſt with an* Alias dict', *or as an Executor or Adminſtrator, he muſt be here deſcribed as in the Pleadings*] to make a certain Jury of the County between the Parties aforeſaid, in a Plea of Treſpaſs [*as the Action is*] becauſe as well the ſaid *N.* (*the Party who firſt takes Iſſue*) as the ſaid *L.* between whom the Matter in Variance is, have put themſelves upon that Jury; and have there the Names of the Jurors and this Writ. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Day of in the Year of our Reign.

Borret.

Inſert the Cauſe of Action in the *Venire* as the Caſe ſhall be, thus:

In a Plea of Debt. *Debt.*

In a Plea of Treſpaſs on the Caſe. *Caſe.*

In a Plea of Treſpaſs and Aſſault. *Aſſault.*

In a Plea of Treſpaſs, Aſſault and Impriſonment. *Aſſault and Impriſonment.*

In a Plea of Treſpaſs and Ejectment of Farm. *Ejectment.*

In

Covenant. In a Plea of Breach of Covenant.

Replevin. In a Plea of Taking and unjuſtly Detaining of Cattle.

Detinue. In a Plea of Detaining Goods. Or Writings.

If the Defendant carries down the Cauſe to be tried by Proviſo, the Writ runs thus:

By Proviſo. And have there the Names of the Jurors and this Writ; provided always, that if two Writs ſhall thereupon come to you, that you only return one of them to our ſaid Juſtices at *Weſtminſter*, at the Time aforeſaid.

You carry this Writ to the Prothonotary to be ſigned, for which you pay him 1 *s.* 4 *d.* and then to the Seal Office to be ſealed, for which you pay 7 *d.*

When you have this Writ returned by the Sheriff, you carry it to the Clerk of the Jury (the preſent Clerk executes this Office at the Petty-Bag-Office in the Rolls Yard *Chancery-Lane*) and he will make out a Writ of *Habeas Corpora Juratorum*, which you carry to the Sheriff, and he alſo returns.

The Form of the Habeas Corpora Juratorum.

Habeas Corpora. GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* to the Sheriff of *M.* Greeting. We command you, that you have before our Juſtices at *Weſt-*

Weſtminſter, on [*the Day in Bank the next Return after the Trial*] or before our Juſtices aſſigned to hold the Aſſizes in your County, by force of the Statute in that Caſe provided, if they ſhall come before, on the Day of [*the Day the Aſſizes are held*] at [*the Place where*] in your County, the Bodies of the ſeveral Perſons named in the Panel annexed to this Writ, Jurors ſummoned in our Court before our Juſtices at *Weſtminſter*, between *L. R.* Plaintiff, and *N. P.* late of, *&c.* in your County, Gentleman, Defendant, of a Plea of Treſpaſs [*as the Action is*] to make that Jury; And have there this Writ. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Day of in the Year of our Reign.

Bulſtrode.

The Form of the Subpœna ad Teſtificandum.

Subpœna ad Teſtificandum.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To *A. B. C. D. E. F.* and *G. H.* Greeting. We command, and firmly enjoin you and each of you, that laying all other Matters aſide, and notwithſtanding any Excuſe, you be in your proper Perſons before our Juſtices at the Aſſizes to be held, at [*the Place where the Aſſizes are to be held*] in the County of *S.* on [*the Day when*] next enſuing, to teſtify and ſpeak the Truth in a

certain Matter of Controverſy pending undetermined in our Court before our Juſtices at *Weſtminſter*, between *A. B.* Plaintiff, and *C. D.* late of *E.* in the ſaid County of *S.* Gentleman, Defendant, in a Plea of Treſpaſs; [*as the Action is*] And this you are not to omit, nor is any one of you to omit, under the Penalty on each of you of one Hundred Pounds. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Day of in the Year of our Reign.

Borret.

If the Trial is to be had in *London*, you ſay thus, — That, *&c.* you be before Sir *John Willes*, Knight, our Chief Juſtice of the Bench, at *Guildhall*, *London*, on [*the Day of the Sittings*] to teſtify, *&c.*

If in *Middleſex* thus, before Sir *John Willes*, Knight, our Chief Juſtice of the Bench at *Weſtminſter*, in the great Hall of Pleas there, called *Weſtminſter Hall*, to teſtify, *&c.*

This *Subpœna* you carry to the proper Prothonotary to be ſigned, for which you pay 1 *s.* and to the Seal-Office to be ſealed, for which you pay 7 *d.* and then you make out Tickets for each of the Witneſſes in the following Form.

Subpœna Ticket.

Mr. *R. B.*

By Virtue of a Writ of *Subpœna* to you directed, and herewith ſhewn unto you, You are commanded Perſonally to be and

appear before His Majeſty's Juſtices of Aſſize [*or the Chief Juſtice as before directed, according as the Caſe is*] at [*the Place*] on the Day of by of the Clock in noon of the ſame Day, to teſtify the Truth, according to your Knowledge, in a certain Cauſe now depending, and there to be try'd between *A. B.* Plaintiff, and *C. D.* late of in the County of Gentleman, Defendant, in a Plea of Treſpaſs [*as the Action is*] on the Part of the Plaintiff [*or Defendant, if at his Inſtance ſubpœna'd*] And hereof you are not to fail, upon Pain of one Hundred Pounds. Dated the Day of in the Year of our Lord 174 , and in the Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c.

L. R. Attorney

Before you go to Trial you muſt enter your Cauſe with the Judge's Marſhal. *Cauſe to be entered with the Marſhal.*

Cauſes to be tried in *London* or *Middleſex* ought to be entered in the Marſhal's Book four Days before the Day of Trial. *Mich.* 1654. *Formerly 4 Days before the Day of Trial.*

But notwithſtanding this Rule, and tho' there is none other to the contrary, two Days at this Time are reckoned ſufficient. *Now Two.*

Ne Recipiatur ſhall be allowed to be entered for the Sittings at *Niſi Prius* after every Term, unleſs the Records of *Niſi* *Records to be bro't in before the Sittings after Term.*

Prius and the Writs be made up and brought into Court on or before the Days and Sittings reſpectively. *Hil.* 8 *G.* 1.

On Circuit Writ and Record to be entered together.

In every Cauſe to be tried in the Circuits, the Writ and Record ſhall be entered together, and no Record ſhall be received without the Writ. *Trin.* 10 & 11 *Geo.* 2.

On Circuit in what Time Record to be brought and entered.

No Writ and Record of *Niſi Prius* ſhall be received at the Aſſizes in any County in *England*, unleſs they ſhall be delivered to, and entered with the Marſhal, before the firſt Sitting of the Court after the Commiſſion-Day, except in the Counties of *York* and *Norfolk*; and there the Writs and Records ſhall be delivered to, and entered with the Marſhal before the firſt Sitting of the Court, on the ſecond Day after the Commiſſion-Day, otherwiſe they ſhall not be received. *Hil.* 14 *Geo.* 2.

Cauſes to be tried in the Order entered.

Every Cauſe ſhall be tried in the Order in which it is ſo entered, without any Preference or Delay, unleſs it ſhall be made out to the Satisfaction of the Judge in open Court, that it is impracticable or inconvenient ſo to do, who thereupon may make ſuch Order for the Trial of the Cauſe, ſo put off, as to him ſhall ſeem juſt. *Same Rule.*

Liſt of Cauſes to be made and hung up.

A Liſt of the Cauſes, when ſo entered as aforeſaid, ſhall be made by the Marſhal, and forthwith fixed up in ſome public Place in the *Niſi Prius* Court, there to remain during the whole Time of the Aſſizes. *Same Rule.*

If

If the Cauſe be to be tried in *London* or *Middleſex*, you pay, for entering the Cauſe with the Marſhal, 13 *s.* 9 *d. viz.* the Chief Juſtice 10 *s.* 9 *d.* Marſhal 2 *s.* Aſſociate 1 *s.*

Entring Fee in London *or* Middleſex.

If the Trial be at the Aſſizes, the Fee for entering the Cauſe is but 11 *s.* 8 *d. viz.* the Judge 6 *s.* 8 *d.* Clerk of Aſſize 2 *s.* Marſhal 2 *s.* Crier 1 *s.*

At the Aſſizes.

If the Plaintiff gives Notice of Trial for the Aſſizes, and don't bring the Trial on, he can't go down to Trial again without new Notice, unleſs by Conſent or Rule of Court.

If Plt. don't go to Trial at Aſſizes, muſt give new Notice.

But in *London* or *Middleſex*, if the Plaintiff gives Notice of Trial for one Sitting, and be not provided to proceed, he may give Notice before that Sitting, that he will try it at the next Sitting. *Mich.* 1654.

In London *or* Middleſex *may give new Notice, before the Day of Sitting, for the next Sitting.*

The Plaintiff cannot continue his Notice of Trial a ſecond Time, *i. e.* he can give ſhort Notice of Trial but once; but if the full Time be given by the Notice of Continuance the word *continue* will not vitiate the Notice.

Plt. can continue his Notice but once.

The Plaintiff gave Notice of Trial for the firſt Sitting within Term, then gave Notice that he countermanded the Notice of Trial for the firſt Sitting, and continued it for the Second; the Defendant made no Defence at the Trial, and the Plaintiff had a Verdict. But on a Motion the Court ſaid the Plaintiff could not countermand and continue in the ſame Notice, and ſet

Can't countermand and continue in the ſame Notice.

the Verdict aſide. *Smith* v. *Hough*, *Hil.* 11 *Geo.* 2.

If Plt. don't proceed to Trial according to Notice, nor countermand, he ſhall pay Coſts.

In caſe the Plaintiff gives Notice of Trial, and don't go to Trial accordingly, the Defendant upon Motion ſhall have his Coſts of Attendance, to be taxed by the Prothonotary, unleſs the Plaintiff countermand his Notice in convenient Time, or ſhew Cauſe to be allowed by the Court in Excuſe of ſuch Coſts. *Mich.* 1654.

Both Plt. and Def. giving Notice of Trial, and neither proceeding to Trial, each paid Coſts.

The Defendant gave Notice of Trial by Proviſo, and the Plaintiff alſo gave Notice of Trial; neither went on to Trial, or countermanded, and both got Rules for Coſts for not going on to Trial; the Prothonotary doubted whether both were intitled to Coſts; and the Judges were of Opinion, that as both Sides gave Notice of Trial, and neither proceeded to Trial, each Side was intitled to Coſts. *Reading* v. *Grafton*, *M.* 13 *Geo.* 1.

Countermand at the Aſſizes.

No Countermand of Trial at the Aſſizes ſhall be good unleſs Notice be given two Days before the Commiſſion-Day. *Mich.* 5 *G.* 1.

In London *and* Middleſex.

And in *London* or *Middleſex* the Countermand muſt be two Days before the Sitting for which Notice was given.

Counterm. after Record made a Remanet.

Notice of Trial may be countermanded after the Record is made a *Remanet*.

For Trial at Sittings after Term, no Ne Recipiatur *till after Proclamation.*

You cannot, on Notice of Trial for the Sittings after Term, enter a *Ne Recipiatur* till after Proclamation made for bringing the Records in.

Motion

Motion to put off a Trial muſt be made at leaſt two Days before the Day for which the Notice of Trial was given. *Motion to put off a Trial when.*

Motion to put off a Trial, for that a material Witneſs is out of the Way, and cannot be had at the Trial, muſt be on the Affidavit of the Defendant; for none but the Defendant can ſwear that the Witneſs is a material Witneſs. *Motion to put off Trial for want of a Witneſs muſt be on the Affid. of the Deft. only.*

But if it appears that this Witneſs, who is ſworn to be a material Witneſs went out of Town or Abroad beyond Sea after the Notice of Trial was given, the Court will not put off the Trial for it; the Defendant might have ſubpœna'd him in Time. *Not to be granted if the Witneſs was in the Way when Notice of Trial given.*

The Plaintiff moved for a Special Jury, and at the Trial there was a Verdict for the Plaintiff; this Verdict was afterwards ſet aſide on Payment of Coſts, and the Queſtion was, Whether the Defendant ſhould pay the Plaintiff the Charge of the Special Jury? The Court held, That the Charge of ſtriking the Special Jury muſt be paid by the Plaintiff, who moved for it, but that all the other Expences of the Special Jury, as far as reaſonable, muſt be allowed. *Eyles*, Bart. v. *Smart*, *Hil.* 10 *G.* 2. *Expences of Striking a Special Jury to be paid by the Party who moves for it; the other Charges to attend the Event of the Suit.*

The Defendant moved for a Special Jury, and had a Verdict. *Cur.* He ought to be allowed the Coſts of the Special Jury, except the Striking. *Gynes*, *qui tam*, v. *Stephens*, *Paſ.* 10 *G.* 2.

On Trials at Bar, which are to be moved for, the Plaintiff's Attorney muſt before the Eſſoin-Day of the Term, in which *On Trials at Bar, Pl's Attorney to give Notice of the Day to chief Prath.*

the Cauſe is appointed to be tried, give Notice to the chief Prothonotary or his Secondary, of the Day on which ſuch Cauſe is to be tried, that the ſame may be put down in the Court-Book; and in caſe of Neglect, and without Motion and ſpecial Direction of the Court, ſuch Cauſe ſhall not be tried that Term. *Hil.* 9 *Anne.*

On Trials at Bar, Judges to have Copies of the Iſſue 4 Days before Trial.

On Trials at Bar, the Lord Chief Juſtice and the other Judges are to have Copies of the Iſſues in ſuch Cauſes delivered to them four Days before the Time appointed for Trial. *Mich.* 3 *Geo.* 2.

Clerks of Aſſize and Aſſociate to return Poſtea's.

Every Clerk of Aſſize, and the Aſſociate to the Lord Chief Juſtice, ſhall make Returns of *Poſtea's* upon Records iſſuing out of this Court, whereupon any Proceedings have been by Virtue of any Writ of *Niſi Prius*, *Diſtringas*, or *Habeas Corpora Juratorum*, and cauſe the ſame to be delivered to the reſpective Prothonotaries, upon the *Quarto Die poſt* of the Return of the Writ of *Niſi Prius* in Bank, under the Penalty of 20 *l.* And that all Excuſes may be taken away, the reſpective Clerks of Aſſize and Aſſociate at the Trial ſhall take the Fees due to them reſpectively for the Return of every ſuch *Poſtea*. *Paſch.* 2 *Jac.* 2.

After the Trial is over, and the Record is returned with the *Poſtea* ingroſſed, you get the *Poſtea* ſtamped with a double Half-Crown Stamp, and apply to the Prothonotary to tax your Coſts, and then deliver

ver the Record and *Poſtea* to the Clerk of the Judgments, who continues the ſame on the Roll, and awards Judgment.

Where final Judgment ſhall be ſigned upon a *Poſtea*, the *Poſtea* ſhall immediately be left with the Clerk of the Judgments of the Prothonotary, and ſhall not afterwards be taken out of the Office without Leave of the Court. *Trin.* 13 *Geo.* 2. *Poſtea to be left with Clerk of the Judgments.*

In caſe a Special Verdict be found, the Plaintiff's Attorney muſt enter the Proceedings to the End of the Special Verdict on Record, and deliver it to the Secondary in Court, and get a Serjeant to move for a *Concilium*, or Day for Argument, then draw up the Rule, and ſerve it on the Defendant's Attorney. *Of Special Verdicts.*

In Cauſes entered in the Court-Book for Argument at the Bar on Special Verdicts or Demurrers, the Attornies concerned in the Cauſe ſhall deliver true Copies of the Record to the reſpective Juſtices of the Court, by the Space of one Week at leaſt next before the Day appointed for ſuch Argument; namely, the Attorney for the Plaintiff, one Copy thereof to the Lord Chief Juſtice, and another to the ſenior Judge; and the Attorney for the Defendant like Copies to each of the other two Juſtices. *Paſ.* 27 *Car.* 2. *Paper-Books on Specials Verdicts or Demurrers how to be delivered.*

No Arguments by Counſel on either ſide ſhall be heard at the Bar, until Books be delivered to all the Judges. *Same Rule.* *No Argument till Books delivered.*

In

If either neglect, the other Side may deliver all the Books.

In caſe the Attorney of either Party ſhall not deliver Books as he ought; then if the Attorney on the other ſide, for expediting his Client's Cauſe, will deliver Books to all the Judges three Days at the leaſt before the Argument, Counſel ſhall be heard on his Client's behalf, at the Day appointed, and the Attorney delivering Books as aforeſaid ſhall be reimburſed the Charges of delivering the two Books, which ought to have been delivered by the Attorney of the adverſe Party, which Charges the ſaid Attorney ſhall be bound to pay upon the Demand thereof. *Same Rule.*

And be reimburſed by the Attorney making default.

If not paid before Judgment, to be allowed in Coſts.

If the Charges of delivering the ſaid two Books ſhall not be paid before Judgment ſhall be given in the Cauſe, the Charges of delivering the ſaid Books ſhall be allowed upon taxing Coſts, and in that caſe the Attorney ſhall not be compelled to pay the ſaid Coſts; but if no Coſts are to be taxed in the Caſe, then the Attorney making Default in delivering of the Books as aforeſaid, ſhall be compelled to pay the Charges of the Copies ſo delivered by the Attorney of the adverſe Party, by Attachment or otherwiſe, as the Court ſhall think fit. *Same Rule, vide poſtea* 179.

If no Coſts, Attachment againſt Attorney making default.

Motion in Arreſt of Judgment, when.

A Motion in Arreſt of Judgment muſt be made within the firſt four Days, *i. e.* before, or on the Appearance Day of the Return of the *Habeas Corpora Juratorum.*

Notice, if on the laſt Day of Term.

If the Motion be on the laſt Day of Term, the Party who moves in Arreſt of Judg-

Judgment muſt produce an Affidavit, that he has given Notice of his Motion to the other Side.

After a Motion in Arreſt Judgment the Party can't move to ſet aſide the Verdict, unleſs it be upon a Matter diſcloſed after the Motion in Arreſt of Judgment, and the Motion to ſet aſide the Verdict be made before Judgment pronounced. *Not after Motion to ſet aſide Verdict; unleſs, &c.*

Verdicts have been frequently ſet aſide for exceſſive Damages, but never for Smalneſs of Damages. *Not for exceſſive Damages.*

A Motion for a new Trial can't be made after the Appearance-Day of the Return of the *Habeas Corpora Juratorum*, unleſs the Foundation of the Motion be ſome Matter diſcovered afterwards. *Motion for new Trial, when.*

Where the Iſſue lay on the Defendant, as *Solvit ad Diem*, *Son Aſſault*, &c. and the Defendant's Witneſſes have been examined, the Court ſeldom grants a new Trial. *Seldom, when Iſſue lay on Deft.*

In Ejectment, where a Verdict is for the Defendant, it is not uſual to grant a new Trial, becauſe the Plaintiff may bring a new Ejectment, and no other Diſadvantage happens to him; but where the Verdict is for the Plaintiff, a new Trial is often granted; for then the Conſequence of not granting a new Trial is the Alteration of the Poſſeſſion of the Premiſſes. *Seldom in Ejectm. if Verdict* pro D. aliter, *if* pro Q.

When final Judgment is obtained, the Party is to proceed to Execution; of which ſee hereafter.

As we ſpoke of Iſſues triable by Juries, we ſhall ſay ſomething of Iſſues triable by the Judges, as on Demurrers, and Pleas of *Nul tiel Record.*

Of Demurrers.

General Demurrer to a Declaration.

AND the ſaid *W.* by *A. R.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, that the ſaid Declaration in Form aforeſaid made and declared, and the Matter therein contained, are not ſufficient in the Law for the ſaid *S.* to have or maintain his ſaid Action againſt him the ſaid *W.* and that he the ſaid *W.* has no need, nor is he obliged by the Law of the Land to anſwer the ſaid Declaration in Manner and Form aforeſaid made and declared: And this he is ready to verify: Wherefore for want of a ſufficient Declaration in this behalf, the ſaid *W.* prays Judgment, and that the ſaid *S.* may be barred from having his ſaid Action againſt him the ſaid *W.* &c.

Joinder.

And the ſaid *S.* inaſmuch as he has above declared ſufficient Matter in the Law to have and maintain his ſaid Action againſt the ſaid *W.* which he is ready to verify; which ſaid Matter the ſaid *W.* has not denied, or given any Anſwer thereto, but intirely refuſes to admit the Verifying the ſame; the ſaid *S.* prays Judgment, and his Damages by Occaſion of the Premiſſes to be adjudged to him, *&c.*

And becauſe the Juſtices here will adviſe themſelves of and upon the Premiſſes before they give their Judgment thereon, a Day is given to the ſaid Parties here from the Day of St. *Michael* in three Weeks to hear their Judgment, for that the ſaid Juſtices here are not yet adviſed thereof, *&c.* Concilium. 3 *Lev.* 130.

And the ſaid *R. D.* by *T. C.* his Attorney comes and defends the Force and Injury, when, *&c.* and craves Oyer of the ſaid Writ of our Lord the King of Privilege; and it is read to him in theſe Words, *to wit*, *George* the Second, *&c.* [ſetting forth the whole Writ, *in hæc verba*] Witneſs Sir *Robert Eyre*, Knight, at *Weſtminſter*, the Third Day of *July*, &c. which being read and heard, the ſaid *W.* prays Judgment of the ſaid Writ and Declaration aforeſaid of him the ſaid *W.* becauſe he ſays, that the ſaid Writ, and the Declaration thereupon aforeſaid, in Manner and Form aforeſaid made and declared, and the Matter in them contained, are not ſufficient in the Law for the ſaid *W.* to have and maintain his Action aforeſaid againſt him the ſaid *R.* to which ſaid Writ and Declaration in Manner and Form aforeſaid made and declared he hath no need, nor is he by the Law of the Land held or obliged, in any Manner to anſwer: And this he is ready to verify: Wherefore, and for want of a ſufficient Writ and Declaration in this behalf, the ſaid *R.* prays Judgment, and that the ſaid *W.*

Special Demurrer to a Writ and Declaration, at the Suit of an Attorney.

Oyer of the Writ.

W. from his Action aforeſaid may be debarred, *&c.* and for Cauſes of Demurrer in Law in this Behalf he the ſaid *R.* according to the Form of the Statute in ſuch like Caſes made and provided, ſhews to the Court theſe following; that is to ſay, for this, that it appears to this Court, that the ſame Writ of our ſaid Lord the King of Privilege was had and ſued out upon the third Day of *July* in the Eighth Year of the Reign of our ſaid Lord the King, which Day of ſuing out thereof was before the Day on which the ſaid *W.* has in his ſaid Declaration thereupon alledged and declared, that the Treſpaſſes, Aſſaults, Batteries, Woundings and Impriſonments, charged upon him the ſaid *R.* in and by the ſaid Declaration, were done and committed; and alſo for this, that between the ſaid Writ and Declaration are diverſe Variances; and alſo for this, that the ſaid Declaration in Form aforeſaid made and declared is in itſelf repugnant, inſenſible, contradictory, and wanteth Form, and ſo forth; And hereupon the ſaid *R. D.* demands the aforeſaid *W. O.* to join in Demurrer with him the ſaid *R.* And hereupon a Day is given by the Court of our ſaid Lord the King of the Bench here, to the ſaid *W.* before his Majeſty's Juſtices at *Weſtminſter*, until next after to join in the Demurrer in Law with the ſaid *R.* And the ſaid *W.* at the ſame Day being ſolemnly required came not, neither is his Writ of our ſaid Lord

Writ teſted before the Cauſe of Action.

Variance, &c.

Day for Plt. to join in Demurrer.

Plaintiff makes Default.

Lord the King of Privilege aforeſaid againſt the ſaid *R.* further proſecuted, but he made Default: Therefore it is conſidered, that the ſaid *W.* take nothing by his ſaid Writ, but that he and his Pledges to proſecute, to wit, *J. D.* and *R. R.* be thereof in Mercy, *&c.* and that the ſaid *R.* do go thereof without Day, *&c.* And further it is conſidered by the Court here, that the ſaid *R.* recover againſt the ſaid *W.* 3 *l.* 16 *s.* 8 *d.* for his Expences and Coſts by him about his Defence in this Part ſuſtained, to the ſaid *R.* by the Court here, according to the Form of the Statute in ſuch Caſe lately made and provided, adjudged, *&c.* and that the ſaid *R.* have his Execution for the ſame, *&c.*

Judgment againſt the Plt.

And the ſaid *C.* ſays, the aforeſaid Plea of the ſaid *F.* above pleaded in Bar, is not ſufficient in Law to bar him the ſaid *C.* from his ſaid Action againſt the ſaid *F.* and that he the ſaid *C.* has no need, nor is bound by the Law of the Land, to anſwer to the ſaid Plea in Manner and Form aforeſaid pleaded: And this he is ready to verify: Wherefore for Default of a ſufficient Plea in this Behalf the ſaid *C.* prays his ſaid Debt, together with his Damages by Occaſion of detaining that Debt, to be adjudged to him, *&c.*

General Demurrer to a Plea.

And the ſaid *F.* for that he has above alledged ſufficient Matter in Law to bar the ſaid *C.* from having his ſaid Action againſt him the ſaid *F.* which he is ready to verify, which ſaid Matter the ſaid *C.* has

Joinder.

has not denied, nor any ways anſwered thereunto, but wholly refuſes to admit the Verification thereof, prays Judgment, and that the ſaid *C.* may be barred from having his ſaid Action, *&c.* And becauſe the Juſtices, *&c.*

Special Demurrer to a Plea of Nil Debet *to a Bail-Bond.*

And the ſaid *E. H.* ſaith, that the ſaid Plea of him the ſaid *F. S.* in Manner and Form aforeſaid above pleaded, and the Matter therein contained, are not ſufficient in Law to bar the ſaid *E.* from having his ſaid Action againſt him the ſaid *F.* and that he the ſaid *E.* hath no need, nor is he obliged by the Law of the Land, to anſwer the ſaid Plea of him the ſaid *F.* in Manner and Form aforeſaid above pleaded: And this he is ready to verify: Wherefore for want of a ſufficient Plea in this Behalf the ſaid *E.* prays Judgment, and that his ſaid Debt, together with his Damages by reaſon of the Detaining of that Debt, may be adjudged to him, *&c.* And for Cauſes of Demurring in Law in this Behalf, the ſaid *E.* according to the Form of the Statute in ſuch Caſes made and provided, ſhews to the Court here theſe Cauſes following; (that is to ſay) for this, that the ſaid *F. S.* hath not by his ſaid Plea particularly denied nor confeſſed the ſaid Deed in the ſaid Declaration alledged; and alſo for this, that the ſaid *F.* is eſtopped by the ſaid Deed to ſay, that he doth not owe the Money in the ſaid Deed mentioned, and ought to have ſhewn by his Plea how he is diſcharged from the ſame.

Cauſes of Demurrer.

And

And the ſaid *F. S.* ſaith, that the ſaid Plea by him the ſaid *F.* in Manner and Form aforeſaid pleaded, and the Matter therein contained, are good and ſufficient in the Law to bar the ſaid *E.* from having his ſaid Action againſt him the ſaid *F.* which ſaid Plea, and the Matter therein contained, he the ſaid *F.* is ready to verify; and becauſe the ſaid *E.* to the ſaid Plea hath not anſwered, nor the ſame hitherto in any Manner gainſaid, he the ſaid *F.* doth pray Judgment, and that the ſaid *E.* may be barred from having againſt him the ſaid *F.* his Action aforeſaid, *&c.* *Joinder.*

Judic. pro Q.

And the ſaid *A.* ſays, that the ſaid Plea of the ſaid *J.* above by replying pleaded, and the Matter therein contained are not ſufficient in the Law for the ſaid *J.* to have and maintain his ſaid Action againſt him the ſaid *A.* and that he has no need, nor is he obliged by the Law of the Land to anſwer to the ſaid Plea in Manner and Form aforeſaid pleaded: And this he is ready to verify: Wherefore for Defect of a ſufficient Plea in this behalf the ſaid *A.* prays Judgment, and that the ſaid *J.* may be barred from having his ſaid Action againſt him the ſaid *A.* &c. *Demurrer to a Replication.*

And the ſaid *J.* for that he has above by replying alledged ſufficient Matter in the Law, for him the ſaid *J.* to have and maintain his ſaid Action againſt the ſaid *A.* which the ſaid *J.* is ready to verify; *Joinder.*

which Matter the ſaid *A.* does not deny, nor any ways anſwer thereto, but intirely refuſes to admit the Verifying thereof; the ſaid *J.* as before prays Judgment, and his ſaid Debt, together with his Damages by occaſion of detaining that Debt, to be adjudged to him, *&c.* And becauſe, *&c.*

Demurrer to a Rejoinder.

And the ſaid *J.* ſays, that the ſaid Plea of the ſaid *M.* above by rejoining pleaded, and the Matter therein contained, are not ſufficient in the Law to bar the ſaid *J.* from having his ſaid Action againſt the ſaid *T.* and that he has not need, nor is obliged by the Law of the Land to anſwer to the ſaid Plea in Manner and Form aforeſaid pleaded: And this he is ready to verify: Wherefore the ſaid *J.* as before, prays Judgment, and his ſaid Debt, together with his Damages by occaſion of the Detaining that Debt, to be adjudged to him, *&c.*

Joinder.

And the ſaid *T.* for that the Matter aforeſaid by him above by replying alledged (which he is ready to verify) is ſufficient in the Law to bar the ſaid *J.* from having his ſaid Action againſt him the ſaid *T.* which ſaid Matter the ſaid *J.* has not denied, nor any ways anſwered thereto, but intirely refuſes to admit the Verifying the ſame, prays Judgment, and that the ſame *J.* may be barred from having his ſaid Action againſt him, *&c.*

3 *Lev.* 187.

Of going to Argument on Demurrer.

When Demurrer is joined, the Plaintiff's Attorney makes up the Demurrer Book, and

and delivers a Copy of it on double Penny Paper to the Defendant's Attorney, who muſt pay him for it after the Rate of 4 *d.* *per* Sheet, beſides the Duty, and alſo for entering his Pleadings and Warrants of Attorney; then the Plaintiff's Attorney enters the whole Proceedings on the Roll, and having delivered it to the Secondary gets a Serjeant to move for a *Concilium*, or Day for arguing the Demurrer, and the Secondary draws up a Rule accordingly, which muſt be ſerved on the Defendant's Attorney, and the Demurrer put down in the Book for Argument.

As to delivering the Paper-Books, *vide antea* fol. 169, 170. *Rule, Paſ.* 27 *Car.* 2.

As to delivering the Paper-Books.

The Plaintiff's Attorney ſhall deliver all the Demurrer-Books to the Lord Chief Juſtice and the reſt of the Judges, and the Defendant's Attorney ſhall pay the Plaintiff's Attorney for two of the ſaid Books two Days at leaſt before the Day appointed for arguing ſuch Demurrer, and the Defendant ſhall not be heard by his Counſel when the Cauſe comes on to be argued, unleſs the ſaid two Books be accordingly paid for. *Mich.* 6 *Geo.* 2.

Where on Caſes of Demurrer Deft's Attorney obliged to accept Notice of Inquiry.

Where the Defendant demurs to the Declaration, his Attorney ſhall be obliged to accept of Notice of executing the Writ of Inquiry on the Back of the Joinder in Demurrer; and where the Defendant pleads ſuch a dilatory Plea that the Plaintiff is obliged to demur, the Defendant's Attorney ſhall be obliged to accept

of Notice of executing a Writ of Inquiry on the Back of ſuch Demurrer. *Trin.* 10 *Geo.* 1.

Proceedings on Iſſues upon Nul tiel Record.

Declaration in Debt on a Judgment.

London, *to wit*, *R. D.* late of *London*, Carpenter, was ſummoned to anſwer unto *L. P.* of a Plea, that he render to him 62 *l.* of lawful Money of *Great Britain*, which he owes him and unjuſtly detains, *&c.* and whereupon the ſaid *L.* by *J. C.* his Attorney ſaith, that whereas the ſaid *L.* heretofore, that is to ſay, in *Eaſter* Term in the Fourth Year of the Reign of His preſent Majeſty King *George* the Second, in His ſaid Majeſty's Court, before Sir *Robert Eyre*, Knight, and his Brethren, then his Majeſty's Juſtices of the Bench here, at *Weſtminſter* in the County of *Middleſex*, by the Conſideration of the ſaid Court recovered againſt the ſaid *R.* 62 *l.* which were adjudged to the ſaid *L.* in the ſaid Court for his Damages which he had ſuſtained, as well by occaſion of the not performing certain Promiſes and Undertakings to the ſaid *L.* by the ſaid *R.* then lately made, as for his Coſts and Charges by him about his Suit in that behalf expended, whereof the ſaid *R.* is convicted, as by the Record and Proceedings thereof now remaining in His Majeſty's ſaid Court here more fully and

and at large appears, which ſaid Judgment ſtill remains in its full Strength, Force and Effect, not reverſed, vacated, annulled, diſcharged or ſatisfied; and the ſaid *L.* hath as yet obtained no Satisfaction of the aforeſaid Judgment, whereby an Action hath accrued to the ſaid *L.* to demand and have of the ſaid *R.* the ſaid 62 *l.* yet the ſaid *R.* although often requeſted, hath not rendered the ſaid 62 *l.* or any Part thereof to the ſaid *L.* but to render the ſame to him hitherto hath, and ſtill doth wholly deny, to the Damage of the ſaid *L.* 20 *l.* And thereupon he brings Suit, *&c.*

And the ſaid *R.* by *W. W.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſaith, that the ſaid *L.* ought not to have his ſaid Action againſt him, becauſe he ſaith, that there is not any ſuch Record of Recovery of Damages aforeſaid againſt him the ſaid *R.* in His ſaid Majeſty's Court, before Sir *Robert Eyre*, Knight, and his Brethren, his Majeſty's Juſtices of the Common Bench, as the ſaid *L.* in his Declaration hath alledged: And this he is ready to verify; Therefore he prays Judgment, if the ſaid *L.* ought to have his ſaid Action thereof againſt him, *&c.* *Plea* Nul tiel Record.

And the ſaid *L.* ſaith, that he by any Thing before alledged ought not to be barred from having his aforeſaid Action maintained againſt the ſaid *R.* becauſe he ſaith, that there is ſuch a Record of Recovery againſt him the ſaid *R.* in His ſaid *Replication.*

Majeſty's Court of Common Bench here remaining, as by the ſaid Declaration is above alledged: And this he is ready to verify by the ſaid Record, and he prays, that the ſaid Record may be inſpected, and ſeen by the Juſtices here, *&c.* And becauſe the ſaid *L.* has not the ſaid Record now ready here in Court, it is ſaid by the ſaid Court here to the ſaid *L.* that he have the ſaid Record here on

The ſame Day is given to the ſaid *R.* here, *&c.*

Rule for Judgment on bringing Record into Court.

On bringing the Record into Court on the Day given, the Secondary of Courſe draws up a Rule for Judgment *Niſi Cauſa* within four Days, and at the Expiration of that Time the Secondary certifies at the Foot of the Rule that no Cauſe hath been ſhewn, after which Judgment may be ſigned.

Judgment.

The Clerk of the Judgments enters up the Judgment.

The Plaintiff muſt bring in the Record at the Day he has given himſelf, or the Court will not receive it.

Recovery in a former Action pleaded in Bar.

And the aforeſaid *J.* by *J. D.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, that the ſaid *T.* ought not to have or maintain his ſaid Action againſt him, becauſe he ſays, that after making the ſeveral Promiſes and Aſſumptions in the ſaid Declaration mentioned, and before the Day of obtaining the Original Writ of the ſaid *T. to wit*, in the Term of St. *Michael* in the preſent Year of

of the Reign of the now King before Sir *Robert Eyre*, Knight, and his Companions, Juſtices of our ſaid Lord the King of the Bench at *Weſtminſter*, by Bill, without the Writ of the ſame King, and by the Conſideration of the ſaid Court, recovered againſt the ſame *J.* 60 *l.* for his Damages which he had ſuſtained as well by reaſon of the not performing the ſeveral Promiſes and Aſſumptions in the ſaid Declaration above mentioned, as for his Coſts and Charges by him in his ſaid Suit in that behalf laid out and expended, as by the Record and Proceſs thereof in the ſaid Court of our ſaid Lord the King of the Bench at *Weſtminſter* fully appears. And the ſaid *J.* avers, that the Promiſes and Aſſumptions in the ſaid Record mentioned, and the Promiſes and Aſſumptions in the ſaid Declaration above mentioned, are the ſame Promiſes and Aſſumptions, and not other or different: And this the ſaid *J.* is ready to verify: Whereupon he prays Judgment, if the ſaid *T.* ought to have or maintain his ſaid Action againſt him, *&c.*

And the aforeſaid *T.* ſays, that he by any Thing alledged by the ſaid *J.* in the above pleading ought not to be precluded from having his Action aforeſaid againſt the ſaid *J.* becauſe he ſays, that there is not any ſuch Record of the ſaid Recovery againſt the ſaid *J.* at the Suit of the ſaid *T.* as he the ſaid *J.* above in pleading hath alledged: And this he is ready to verify: *Replication*, Nul tiel Record.

Whereupon he prays Judgment, and that his ſaid Damages may be adjudged to him, *&c.*

Rejoinder.

And the aforeſaid *J.* ſays, that there is a Record of the ſaid Judgment as the ſaid *J.* above in Pleading hath alledged; and this he is ready to verify by the ſaid Record, and prays, that the ſaid Record may be ſeen and inſpected by the Juſtices here. And becauſe the ſaid Record is not now had here, it is commanded the ſaid *J.* that he have here the ſaid Record in (*the Day*) at his Peril. The ſame Day is given as well to the ſaid *T.* as to the ſaid *J.* here, *&c.* At which Day come here as well the ſaid *T.* as the ſaid *J.* by their ſaid Attornies, and the ſaid *J.* hath not here the ſaid Record, but maketh Default; whereby it ſufficiently appears to the ſaid Juſtices here, that there is not any ſuch Record of the ſaid Recovery, as the ſaid *J.* hath above alledged: Wherefore, *&c.* (*Judgment.*)

Day given to produce the Record.

Deft. fails in producing the Record.

Q. If there was not here a complete Iſſue upon the Replication, and the Rejoinder unneceſſary.

That the Plt. is outlawed in another Court.

And the ſaid *T.* by *F. K* his Attorney comes and defends the Force and Injury, when, *&c.* and ſaith, that the ſaid *J.* ought not to have his aforeſaid Action againſt him the ſaid *T.* thereon, becauſe he ſaith, that one *C. T.* heretofore (that is to ſay) in *Eaſter* Term in the fifth Year of the Reign of His preſent Majeſty, by an Original Writ impleaded the ſaid *J.*

by

by the Name of *J. H.* late of *London*, Gent. in the Court of the ſaid now King, before the King himſelf (the ſaid Court then and ſtill being at *Weſtminſter* in the County of *Middleſex*) in a Plea of Treſpaſs; and the ſaid *J.* becauſe he did not appear in His ſaid Majeſty's Court before the ſaid King, to anſwer unto the ſaid *C.* in the aforeſaid Plea, according to the Law and Cuſtom of this Realm, was put in Exigent to be outlawed in *London*; and for that Reaſon afterwards, *to wit*, on *Monday* next before the Feaſt of the Purification of the Bleſſed Virgin *Mary* in the Sixth Year of the Reign of His preſent Majeſty, in the ſaid Court of our ſaid Lord the now King before the ſaid King himſelf, was outlawed in due Form of Law at the Suit of the ſaid *C.* in the ſaid Plea, and ſtill remains outlawed, as by the Record and Proceedings thereof in His ſaid Majeſty's Court, before the King himſelf at *Weſtminſter* aforeſaid returned, and now there remaining, may more fully appear: And this he is ready to verify by the ſaid Record; Wherefore he prays Judgment, whether the ſaid *J.* ought to have his ſaid Action therefore againſt him.

Replication. Nul tiel Record.

And the ſaid *J.* ſaith, that he, by any Thing by the ſaid *T.* in his Plea above alledged, ought not to be barred from having his ſaid Action againſt him, becauſe he ſaith, that there is not any ſuch Record of Outlawry in His ſaid Majeſty's

Court before the King himſelf, as the ſaid *T.* by his ſaid Plea hath alledged: And this he is ready to verify in ſuch Manner as the Court ſhall award. And the ſaid *T.* is commanded that he have the ſaid Record here on the Morrow of the Aſcenſion of our Lord at his Peril; And the ſame Day is given to the ſaid *J.* here, *&c.* At which Day here come as well the ſaid *J.* as the ſaid *T.* by their Attornies aforeſaid; and the ſaid *T.* hath not here the ſaid Record, but maketh Default thereof: Wherefore, *&c.*

Day given to produce the Record.

Deft. makes Default.

Notice of Inquiry on Iſſue of Nul tiel Record.

Upon an Iſſue of *Nul tiel Record*, Notice of executing a Writ of Inquiry may be given upon the Iſſue-Book, as well as upon a Joinder in Demurrer. *Long* againſt *Lingwood*, *Hil.* 8 *Geo.* 2.

Of Judgments by Default.

Of entering Judgment by Default.

IF the Defendant does not plead by the Time limited by the Rules of the Court (for which ſee before, *fol.* 98, 141, *&c.*) the Plaintiff may ſign his Judgment with the Prothonotary, in whoſe Office the Proceedings are entered. In Debt the Judgment is final, and ſigned on a double Half-Crown Stamp; but in Treſpaſs, Treſpaſs on the Caſe, *&c.* the firſt Judgment is only Interlocutory and not final, till the Inquiry is returned, when you get the Inquiſition ſtamped with a double Half-Crown Stamp, and then the Prothonotary taxes

taxes your Coſts *de Incremento*, which is called Signing the final Judgment.

In entring your Judgment you leave about an Inch Margin, and begin about ten Inches from the Top of the Roll, the Declaration thus:

London, *to wit*, C. *D.* late of *London*, Merchant, was attached to anſwer *A. B.* in a Plea of Treſpaſs on the Cauſe; and whereupon, *&c.* (*to the End of the Declaration*) And thereupon he brings Suit, *&c.* *Judgment in Debt.*

Then beginning a new Line, you enter the Judgment in the following Manner:

And the ſaid *C. D.* by *C. H.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays nothing in Bar or Preclusion of the Action of the ſaid *A. B.* by which the ſaid *A. B.* remains thereupon undefended againſt the ſaid *C.* Therefore it is conſidered that the ſaid *A.* recover againſt the ſaid *C.* his ſaid Debt, and his Damages by occaſion of the Detaining the ſaid Debt to 53 *s.* by the Court here adjudged to the ſaid *A. B.* by his Aſſent. And the ſaid *C.* in Mercy, *&c.* *By* Nil Dicit. *Judgment ſigned* 5 May 1739. *Mercy.*

By the Statute 29 *Car.* 2. *c.* 3. *ſ.* 14. Any Judge or Officer of any of the Courts at *Weſtminſter*, who ſhall ſign any Judgment, ſhall at the Time of ſigning it (without Fee) ſet down the Day and Year of his ſo doing upon the Paper-Book, Docket or Record, which Day and Year ſhall be ſet down on the Margin of the Roll of the Record where ſuch Judgment ſhall be entered. *Day of ſigning Judgment to be ſet down.*

And

Cognovit Actionem *in Debt.*

And the ſaid *B.* by *C. D.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, that he cannot deny the Action of the ſaid *E.* nor but that he owes to the ſaid *E.* the ſaid 10 *l.* in Manner and Form as the ſaid *E.* has above declared againſt him: It is thereſore conſidered, that the ſaid *E.* recover againſt the ſaid *B.* his ſaid Debt, and his Damages by occaſion of the Detaining that Debt to 53 *s.* by the Court here adjudged to the ſaid *E.* by his Aſſent; and the ſaid *B.* in Mercy, *&c.*

Judgment ſigned Day of 1739.

Cognovit Actionem *in Debt on a Bond.*

And the ſaid *T.* by *L. R.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, that he cannot deny but that the ſaid Writing obligatory is the Deed of him the ſaid *T.* nor but that he owes to the ſaid *W.* the ſaid 10 *l.* in Manner and Form as the ſaid *W.* has above declared againſt him: It is therefore conſidered, *&c. as before.*

Judgment by Non Informatus.

And the ſaid *L.* by *T. S.* his Attorney comes and defends the Force and Injury, when, *&c.* and the ſame Attorney ſays, that he is not informed by the ſaid *L.* of any Anſwer to be given for the ſaid *L.* to the ſaid *R.* in the Plaint aforeſaid; and he ſays nothing elſe thereupon; by which the ſaid *R.* remains thereupon undefended againſt the ſaid *L.* It is therefore conſidered, *&c.*

Nil Dicit *in Caſe.*

And the ſaid *C. D.* by *E. T.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays nothing

thing in Bar or Preclusion of the Action of the said *G.* by which the said *G.* remains thereupon undefended against the said *C.* For which the said *E.* ought to recover against the said *C.* his Damages by occasion of the Premisses. But because it is not known what Damages the said *G.* has sustained by occasion of the Premisses, it is therefore commanded to the Sheriff, that by the Oaths of good and lawful Men of the County aforesaid he diligently inquire what Damages the said *G.* has sustained as well by occasion of the Premisses, as for his Costs and Charges by him about his Suit in this behalf expended; And that the Inquisition which he shall thereupon make he make appear to the Justices of our Lord the King at *Westminster*, on the Morrow of the Holy *Trinity*, under his Seal, and the Seals of them by whose Oath he shall make the said Inquisition. *Inquiry awarded.*

If the Action be in Case on *Assumpsit*, instead of saying [*by occasion of the Premisses*] say [*by occasion of not performing the Promises and Undertakings aforesaid.*]

If in Trespass, say [*by occasion of the Trespass aforesaid.*]

If in Trespass and Assault, say [*by occasion of the Trespass and Assault aforesaid.*]

If in Trespass, Assault and Imprisonment, say [*by occasion of the Trespass, Assault and Imprisonmont aforesaid.*]

In Covenant say [*by occasion of breaking the said Covenant.*]

If

If the Defendant, after having pleaded *per Minas* or *per Dures*, and Iſſue taken thereon, is willing to confeſs the Action, the Entry of ſuch Confeſſion is to be in this Manner.

Relicta Verificatione *and* Cognovit Actionem *after* per Minas *pleaded.*

At which Day here cometh as well the ſaid *A.* as the ſaid *B.* by their Attornies aforeſaid, and thereupon the ſaid *B.* relinquiſhing his Averment aforeſaid above by him pretended ſays, that he cannot deny the Action of the ſaid *A.* thereupon, nor but that he at the Time of making the ſaid Writing was of his own Right at large, and made the ſaid Writing to the ſaid *A.* of his mere and free Will, and not for Fear of Threatnings, as the ſaid *A.* has above alledged: It is therefore conſidered, *&c. as before.*

If the Defendant confeſs the Action after *Non eſt factum* pleaded, and Iſſue joined, the Entry is thus:

The like after Non eſt factum *pleaded.*

At which Day here cometh as well the ſaid *R.* as the ſaid *S.* by their Attornies aforeſaid, and hereupon the ſaid *S.* relinquiſhing his Averment aforeſaid above by him pretended, ſays, that he cannot deny the ſaid Action of the ſaid *R.* nor but that the ſaid Writing is the Deed of the ſaid *S.* nor but that he owes the ſaid *R.* the ſaid 100 *l.* in Manner and Form as the ſaid *R.* above complains againſt him: It is therefore conſidered, *&c.*

Non ſum Informatus *in Caſe.*

And the ſaid *B. C.* by *D. E.* his Attorney comes and defends the Force and Injury, when, *&c.* and the ſame Attorney ſays,

ſays, that he is not informed by the ſaid *B.* of any Anſwer for the ſaid *B.* to be given to the ſaid *E.* in the Plaint aforeſaid; For which the ſaid *E.* ought to recover his Damages by occaſion of the Premiſſes againſt the ſaid *B.* But becauſe it is unknown what Damages the ſaid *E.* has ſuſtained by occaſion of the Premiſſes, it is commanded to the Sheriff, that by the Oaths of Twelve good and lawful Men of his Bailiwick he diligently inquire what Damages the ſaid *E.* has ſuſtained as well by Occaſion of the Premiſſes, as for his Coſts and Charges by him about his Suit in this Behalf expended; and that the Inquiſition which he ſhall thereupon take he make appear to the Juſtices of our Lord the King at *Weſtminſter*, in five Weeks from the Day of *Eaſter*, under his Seal, and the Seals of, *&c.*

Inquiry awarded.

The Clerk of the Judgments enters up the final Judgment. See his Duty under the Head of the Officers of the Court, *fol.* 10.

No Bailiff or Sheriff's Officer ſhall preſume to exact or take from any Perſon being in his Cuſtody any Warrant to acknowledge a Judgment but in the Preſence of an Attorney for the Defendant, which Attorney ſhall then ſubſcribe his Name thereunto; which ſaid Warrant ſhall be produced when the ſaid Judgment ſhall be acknowledged. *Hil.* 15, 16 *Car.* 2.

No Warrant to confeſs a Judgment to be taken of a Priſoner, unleſs an Attorney on his Behalf be preſent.

No Attorney ſhall enter or acknowledge, or cauſe to be entered or acknowledged, any

Judgment by colour of any Warrant gotten from any Defendant being under Arreſt, otherwiſe than is aforeſaid. *Same Rule.*

Aliter *if Deft. be an Attorney.*

But if the Defendant be an Attorney, or practices as ſuch, 'tis ſufficient, though no Attorney on his Behalf be preſent.

On Warrant of a Year ſtanding Judgment can't be entered without Leave of the Court.

If Judgment on a Warrant of Attorney be not entered up within a Year, the Plaintiff muſt apply to the Court for Leave to enter up the Judgment, making an Affidavit of the due Execution of the Warrant, that the Debt is unſatisfied, and the Defendant living.

Of a Special Original to ſupport the Judgment.

If the Plaintiff has Judgment, and it be not upon a Verdict, his Attorney muſt make out a *Præcipe* for a Special Original returnable on the firſt Return of that Term, in which the Judgment (or interlocutory Judgment in caſe of a Writ of Inquiry) is entered.

The Form of a Præcipe *for a Special Original in Caſe.*

Præcipe *for a Special Original.*

Middleſex, *to wit*, IF *L. B.* ſhall give you Security to proſecute his Suit, then put by Sureties and ſafe Pledges, *C. M.* late of *Weſtminſter* in the County of *Middleſex*, Eſq; that he be before our Juſtices at *Weſtminſter* from the Day of St. *Michael* in three Weeks, to ſhew, *Wherefore* whereas the ſaid *C.* on the 25th Day of *Sept.* in the Year of our Lord 1738. at *Weſtminſter* in the ſaid County of *Middleſex*, was indebt-

Ind. Aſſ. *for the Uſe of Horſes, Coach, &c. and Attendance of Servants.*

indebted to the ſaid *L.* in the Sum of 200 *l.* of lawful Money of *Great Britain*, for the Hire of diverſe Horſes, Mares and Geldings of him the ſaid *L.* and for the Labour and Attendance of diverſe of his Servants, and alſo for the Uſe of diverſe of his Coaches and Chariots by him the ſaid *C.* at his ſpecial Inſtance and Requeſt before that Time uſed, hired and had; and being ſo indebted, the ſaid *C.* in Conſideration thereof afterwards, *to wit*, on the ſame Day and Year aforeſaid, at *Weſtminſter* aforeſaid in the ſaid County of *Middleſex*, took upon himſelf, and to the ſaid *L.* then and there faithfully promiſed, that he the ſaid *C.* the ſaid 200 *l.* to him the ſaid *L.* when he ſhould be afterwards thereunto required, would well and truly pay and content. *And alſo whereas* the ſaid *C.* afterwards, *to wit*, on the ſame Day and Year aforeſaid, at *Weſtminſter* aforeſaid in the ſaid County of *Middleſex*, in Conſideration that the ſaid *L.* had before that Time, at the like ſpecial Inſtance and Requeſt of him the ſaid *C.* let to Hire to him the ſaid *C.* diverſe other Horſes, Mares and Geldings, and diverſe other Coaches and Chariots of him the ſaid *L.* and had alſo before that Time by diverſe of his Servants done and performed for him the ſaid *C.* diverſe other Labours and Attendances, took upon himſelf, and to the ſaid *L.* then and there faithfully promiſed, that he the ſaid *C.* ſo much Money, as he the ſaid *L.* ſhould reaſonably deſerve to have for the

Quantum Meruit *thereon.*

ſame, to him the ſaid *L.* when he ſhould be afterwards thereunto required, would well and truly pay and content. And he the ſaid *L.* doth aver, That he the ſaid *L.* reaſonably deſerved to have for the ſame the further Sum of 200*l.* of like lawful Money, *to wit*, at *Weſtminſter* aforeſaid in the County aforeſaid, whereof the ſaid *C.* then and there had Notice. *And alſo whereas* the ſaid *C.* afterwards, *to wit*, on the ſame Day and Year aforeſaid, at *Weſtminſter* aforeſaid in the County aforeſaid, had accounted with him the ſaid *L.* touching and concerning diverſe other Sums of Money by him the ſaid *C.* to him the ſaid *L.* then due and in Arrear, and unpaid; and upon that Account he the ſaid *C.* was found in Arrear to him the ſaid *L.* in the Sum of 132*l.* 7*s.* of like lawful Money, and being ſo found in Arrear he the ſaid *C.* in Conſideration thereof afterwards, *to wit*, on the ſame Day and Year aforeſaid, at *Weſtminſter* aforeſaid in the County aforeſaid, took upon himſelf, and to him the ſaid *L.* then and there faithfully promiſed that the ſaid *C.* the ſaid 132*l.* 7*s.* laſt mentioned, to him the ſaid *L.* when he ſhould be afterwards thereunto required, would well and truly pay and content: *Nevertheleſs* the ſaid *C.* in no wiſe regarding his ſaid ſeveral Promiſes and Undertakings ſo made by him as aforeſaid, but contriving and fraudulently intending him the ſaid *L.* in this Behalf craftily and ſubtilly to deceive and defraud, the ſaid ſeveral Sums of

Inſimul Computaſſet.

Breach.

of Money, or any Part thereof, to him the ſaid *L.* (although oftentimes thereunto required by him the ſaid *L. to wit*, on the ſame 25th Day of *September*, and often afterwards, at *Weſtminſter* aforeſaid in the County aforeſaid) hath not paid, but hath altogether refuſed, and ſtill doth refuſe to pay him the ſame, to the Damage of the ſaid *L.* of 200 *l.* as he ſays.

R. R. *Returnable—in three Weeks of St.* Mich'.

This *Præcipe* muſt he carried to the Curſitor of the County in which the Action is laid, on or before the Eſſoin-Day of the ſubſequent Term, purſuant to the following Order.

No Curſitor ſhall make, or permit to be made, within his reſpective Office and Diviſion, any Original Writs whatſoever of any Return paſt, unleſs he ſhall receive the Inſtructions for making thereof within the Term wherein the ſaid Writs are to be Returnable, or at fartheſt *on or before* the Eſſoin-Day of the next ſucceeding Term, without ſpecial Warrant from the Lord Chancellor or Lord Keeper of the Great Seal of *England*, or Maſter of the Rolls for the Time being. *Lord* Clarendon's *Orders in Chancery.* *Original to be beſpoke on or before the Eſſoin-Day of the ſucceeding Term.*

If the Debt demanded, or Damages laid, exceed 40 *l.* the Plaintiff pays a Fine to the King in Proportion to ſuch Debt or Damages, as follows: *Fine to the King.*

	l.	*s.*	*d.*
From 40 *l.* to 100 Marks ——	0	6	8
From 100 Marks to 100 *l.* ——	0	10	0
From 100 *l.* to 200 Marks ——	0	13	4
From 133 *l.* 6 *s.* 8 *d.* to 166 *l.* 13 *s.* 4 *d.*	0	16	8
From 166 *l.* 13 *s.* 4 *d.* to 200 *l.* ——	1	0	0
And for every 100 Marks more	0	6	8
And for every 100 *l.* more ——	0	10	0

Of Returning the Original.

When the Curſitor has made out the Original, the Plaintiff's Attorney returns it of courſe thus:

Pledges of Proſecuting { *John Doe*, *Richard Roe*.

The within named *C. M.* has nothing in my Bailiwick whereby he may be * attached,

George Heathcote, Eſq; Sir *John Lequeſne*, Knt. } Sheriff.

And then he files it with the *Cuſtos Brevium*.

Warrants of Attorney.

He muſt alſo file a Warrant of Attorney for the Plaintiff, and one for the Defendant, if he appeared by Attorney. *Vide antea, fol.* 150, 151, 152.

Of Writs of Inquiry.

Notice of executing Writs of Inquiry.

WHEN you have ſigned your interlocutory Judgment, you are to give the Defendant Notice of executing the

* *Vide antea, fol.* 94. the Difference between attached and ſummoned.

Writ

Writ of Inquiry; and in ſome Inſtances you may give Notice of executing the Writ of Inquiry before you have ſigned Interlocutory Judgment, as in Caſes of Demurrers and Iſſues on *Nul tiel Record*, as appears *fol.* 179. and *fol.* 186.

Where 8 *Days Notice of executing Writ of Inquiry in* London *or* Middleſex.

In *London* or *Middleſex* (the Defendant dwelling within Forty Miles of *London*) there muſt be eight Days Notice given of executing a Writ of Inquiry, excluſive of the Day whereon the Notice is given. *Mich.* 1654.

Where 14 *Days.*

But if the Defendant lives above Forty Miles from *London*, and the Inquiry is to be executed in *London* or *Middleſex*, there muſt be Fourteen Days Notice, excluſive of the Day of the Notice. *Same Rule.*

Eight Days Notice in the Country.

And Eight Days Notice, excluſive of the Day of the Notice, muſt be given of executing Writs of Inquiry in the Country. *Same Rule.*

Where a Term's Notice.

If there have been no Proceedings for Twelve Months after Judgment there muſt be a Term's Notice given of executing a Writ of Inquiry of Damages; and ſuch Notice muſt be given before the Effoin-Day of the Term. *Vide antea, fol.* 153. *Rule, Paſ.* 13 *Geo.* 2.

Where Plt. concludes ad Patriam, *gives Notice of Trial, and Deft. don't join Iſſue, Notice of Inquiry to be from Time Notice of Trial was given.*

Where the Plaintiff concludes *ad Patriam*, and gives Notice of Trial on the Back of his Pleading (purſuant to the Rule of *Trinity* 2 *Geo.* 1. *antea, fol.* 154.) if the Defendant does not join Iſſue on ſuch Pleading before the Rule is out, the Defendant's Attorney ſhall, after Judgment obtain-

obtained, be obliged to accept Notice of executing a Writ of Inquiry from the Time that the Notice of Trial was given on the Back of ſuch Pleading, as aforeſaid. *Hilary* 6 *Geo.* 1.

Where Notice of Inquiry may be given on Demurrer or Joinder in Demurrer.

Vide antea, *fol.* 179. Where Defendant ſhall be obliged to accept Notice of executing a Writ of Inquiry on the Back of a Joinder in Demurrer or Demurrer; and *fol.* 186. where he ſhall be obliged to accept the like Notice on the Back of an Iſſue of *Nul tiel Record.*

And on Iſſue of Nul tiel Record.

Where Notice to be delivered to Deft. or left at his laſt Place of Abode.

Where the Plaintiff has entered an Appearance for the Defendant, purſuant to the Act of Parliament, left a Declaration for him in the Office, given him proper Notice thereof, and ſigned Judgment for want of a Plea, he may give Notice of executing his Writ of Inquiry either by delivering the Notice in Writing to ſuch Defendant, or leaving the ſame for him at his laſt or moſt uſual Place of Abode, which ſhall be a ſufficient Notice to ſuch Defendant. *Mich.* 1 *Geo.* 2.

Notice of Inquiry not to be given to Deft. if his Attorney be known.

Notice of Trial or of executing a Writ of Inquiry given to a Defendant, when his Attorney is known, is not good Notice; but when the Defendant's Attorney is not known, Notice of Trial or of executing a Writ of Inquiry may be given to the Defendant.

The Form of the Notice.

Common Pleas. *John Den*
against
Richard Fenn.

SIR,

Be pleaſed to take Notice, that a Writ of Inquiry of Damages in this Cauſe will be executed on *Monday* the Fourteenth Day of *May* inſtant, at Eleven of the Clock in the Forenoon, at the *Court-Houſe* at *Weſtminſter*. *The Form of a Notice of Inquiry.*

Your humble Servant,
L. R.
Attorney for the Plt.

To Mr. N. C.
Attorney for Deft.

4th *May* 1739.

As to the Time. Notice of executing a Writ of Inquiry at Eleven of the Clock in the Forenoon is good, if the Writ be executed before Twelve.

Notice of executing a Writ of Inquiry between the Hours of Eleven and Two is bad, it ſhould be confined to two Hours at moſt, as between Ten and Twelve.

Notice of executing a Writ of Inquiry at Ten in the Forenoon, or ſo ſoon after as the Sheriff can attend, is bad for Incertainty.

And Place. The Notice ſhould be certain as to the Place, *viz.* the Houſe, Street, *&c.* A Notice of executing a Writ of Inquiry at the Sign of the *Three Tons* in *Brook-ſtreet*, *Middleſex*, was held bad, not ſaying where

that *Brook-ſtreet* was, *viz.* in *Holborn*, there being three *Brook-ſtreets* in *Middleſex*. Lemark *v.* Newman, Trin. 10 Geo. 2.

A Writ of Inquiry of Damages.

Writ of Inquiry.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, &c. To the Sheriff of *Middleſex*, Greeting. Whereas *B. C.* late of *S.* in your County, Gentleman, was attached to be in our Court before our Juſtices at *Weſtminſter*, to anſwer *D. E.* in a Plea, Wherefore whereas the the ſaid *B.* on the Tenth Day of *March* in the Year of our Reign, at *Weſtminſter* in the County of *Middleſex*, &c. [*as in the Declaration to*] to the Damage of the ſaid *D.* of Fifty Pounds, as he ſays; and it was in ſuch Manner proceeded in our ſaid Court, that the ſaid *D.* ought to recover againſt the ſaid *B.* his Damages, by occaſion of the not performing the ſaid Promiſes and Undertakings (*or by occaſion of the Premiſſes, by occaſion of the ſaid Treſpaſs, Treſpaſs and Aſſault, Breach of the Covenant, or the like, as the Action is.*) But becauſe it is unknown what Damages the ſaid *D.* has ſuſtained by occaſion of the Premiſſes, we command you, that by the Oath of Twelve good and lawful Men of your County (*if in* London, *ſay, of your Bailiwick*) you diligently inquire what Damages the ſaid *D.* has ſuſtained as well by occaſion of the Pre-

Premiſſes, as for his Coſts and Charges by him about his Suit in this Behalf expended; And the Inquiſition which you ſhall make thereof make appear to our Juſtices at *Weſtminſter*, on the Morrow of the Aſcenſion of our Lord, under your Seal, and the Seals of them by whoſe Oath you ſhall make that Inquiſition; And have you there the Names of them by whoſe Oath you ſhall make that Inquiſition, and this Writ. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Day of in the Twelfth Year of our Reign.

Thomſon.

If the Action be at the Suit of an Attorney of the Court, the Writ of Inquiry is in this Form:

GEORGE the Second, *&c.* To, *&c.* Whereas *C. V.* was attached by our Writ of Privilege iſſuing out of our Court here, to be before our Juſtices at *Weſtminſter*, to anſwer *S. O.* Gentleman, one of the Attornies of our Court of the Bench, according to the Liberties and Privileges of the ſame Court, for ſuch Attornies and other Miniſters of the ſame Bench Time out of Mind uſed and approved in the ſame; for that, *to wit*, That whereas the ſaid *S.* on the Day of, *&c.* (*ſetting forth the Declaration to*) to the Damage of the ſaid *C.* of Twenty Pounds, as is ſaid; and it was in ſuch Manner proceeded in our ſaid Court, That, *&c.* (*as before, making the Writ returnable on a Day certain,*

The Form when at the Suit of an Attorney.

as

as on Monday *next after Fifteen Days of* Eaſter, *and not on a general Return Day.*)

When againſt an Attorney.

If an Attorney be Defendant, the Form is thus:

GEORGE the Second, *&c.* To, *&c.* Whereas *D. W.* by *W. T.* his Attorney, came into our Court before our Juſtices at *Weſtminſter*, and exhibited to our ſaid Juſtices his Bill againſt *T. P.* Gentleman, one of the Attornies of our Court of the Bench, preſent in our ſaid Court, in his proper Perſon, For that, *&c.* (*as before*) and the Writ to be returnable on a Day certain.

Writs of Inquiry are to be ſigned by the Prothonotary before they are ſealed.

If your Witneſſes will not voluntarily attend, you may have a *Subpœna* for them in this Form:

Subpœna ad Teſtif. *on a Writ of Inquiry.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To *A. B. C. D. E. F.* and *G. H.* Greeting. We command you, and each of you, firmly injoining, that all other Matters laid aſide, and notwithſtanding any Excuſe, you be in your proper Perſons before the Sheriff of *Middleſex* at the *Court-Houſe* at *Weſtminſter*, on the Day of at Eleven of the Clock in the Forenoon of the ſame Day, to teſtify the Truth in a certain Matter of Controverſy depending in our Court before

fore our Juſtices of the Bench, between *K. J.* Plaintiff, and *S. H.* Defendant, in a Plea of Treſpaſs on the Caſe; and this you are not to omit under the Penalty of one Hundred Pounds. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Twelfth Day of *May* in the Twelfth Year of our Reign.

Thomſon.

When the Writ is ſigned and ſealed, you make out Tickets for the Witneſſes, as before directed on *Subpœnas* for Trials, *fol.* 162.

When the Writ of Inquiry is returned by the Sheriff, you get the Inquiſition ſtamped with a double Half-Crown Stamp, and then carry it to the Prothonotary to tax your Coſts, and after that you deliver it to the Clerk of the Judgments to enter up final Judgment on the Roll.

On ſigning Judgment the Inquiſition to be left with the Clerk of the Judgments.

Where final Judgments ſhall be ſigned on Inquiſitions upon Writs of Inquiry, the Inquiſition ſhall be immediately left with the Clerk of the Judgments of the reſpective Prothonotary, and ſhall not afterwards be taken out of the Office without Leave of the Court. *Trin.* 29 *Car.* 2. *Trin.* 13 *Geo.* 2.

If Inquiry not executed according to Notice, Deft. to have Coſts.

Where Notice is given of a Writ of Inquiry, and not Countermanded in Time, the Defendant ſhall be intitled to Coſts from the Plaintiff, for not executing ſuch Writ of Inquiry, in the ſame Manner as a Defendant, by the Courſe of the Court, is now intitled to Coſts from a Plaintiff who

does not proceed to Trial of an Iſſue joined after Notice given. *Trin.* 13 *Geo.* 2.

Of bringing in Rolls and Docketing the Rolls.

Attorney on receiving Roll from Prothonotary's Office to ſign the Book.

EVery Attorney that ſhall receive any Roll, either Plea or Common, from the reſpective Prothonotaries of this Court, ſhall ſign and ſet his Name to ſuch Prothonotary's Book, from whom he ſhall receive the ſame; and no Prothonotary ſhall deliver any Roll but to the proper Hand of ſome known Attorney or Clerk of their reſpective Offices. *Paſ.* 34 *Car.* 2.

Rolls not to be carried into the Country.

No Attorney ſhall carry any Rolls of this Court into the Country. *Paſ.* 12 *Jac.* 1. *Mich.* 1649. *Mich.* 1654. *Paſ.* 34 *Car.* 2.

When Attornies are to bring in their Rolls.

Every Attorney of this Court, that ſhall receive any Roll or Rolls as aforeſaid, Plea or Common, of any *Eaſter* Term, ſhall bring the ſame into the Office from whence he received it on or before the firſt Day of the next *Trinity Term.*

Eaſter *Term.*

Trinity.

And the Rolls received of any *Trinity* Term ſhall be brought into ſuch Office on or before the Feaſt-Day of St. *Michael* the Archangel next enſuing the ſaid Term.

Michaelmas.

And the Rolls received of any *Michaelmas* Term ſhall be brought into ſuch Office on or before the Sixth Day of *January* next enſuing.

Hilary.

And the Rolls received of any *Hilary* Term ſhall be brought into ſuch Office by the

the Space of four Days before the Feaſt of *Eaſter* next after the ſaid Term. *Paſch.* 34 *Car.* 2.

Caret Paper.

The Prothonotaries, on delivering the common Rolls to the Clerk of the Warrants, are alſo to deliver a Note of the Rolls that are wanting, the ſame Note to be ſubſcribed by the Clerk of the Warrants, and redelivered to the Prothonotary; and the Clerk of the Warrants, on delivering over the common Rolls to the Clerk of the Eſſoins, is to take the like Note from the Clerk of the Eſſoins of the Rolls wanting. *Michaelmas* 1654.

No Poſt-Rolls to be delivered to Attornies.

The Clerk of the Eſſoins ſhall not deliver out any Poſt-Rolls, or other Rolls of this Court, to any Attorney or Clerk of this Court, but to the reſpective Prothonotaries and other Officers of this Court, that have a Right to ſuch Rolls. *Paſch.* 34 *Car.* 2.

When the Officers are to carry in the Rolls to the Clerk of the Eſſoins.

The ſeveral and reſpective *Officers* of this Court ſhall deliver in all their Rolls of *Trinity*, *Michaelmas* and *Hilary* Term, to the Clerk of the Eſſoins, before the Eſſoin-Day of the ſeveral Terms following; and their Rolls of *Eaſter* Term upon or before the firſt Day of *Trinity* Term following; and the Officer who ſhall not bring or ſend in all his Rolls of the ſaid ſeveral Terms at the Times aforeſaid ſhall pay to the Clerk of the Eſſoins, for every Roll brought in after, 12 *d.* 6 *Jac.* 1. *Paſ.* 5 *W.* & *M.*

The Plea Rolls of every Term ſhall be brought in to the Clerk of the Eſſoins three Weeks after the End of the Term following, and in Default thereof, there ſhall be likewiſe paid to the Clerk of the Eſſoins, for every Plea Roll brought in after, 12 *d.* *Paſ.* 5 *W.* & *M.*

The Clerk of the Eſſoins to lay before the Court an Account of what Rolls are wanting.

The Clerk of the Eſſoins ſhall a Fortnight within every Term lay before the Court an Account of what Rolls are wanting, that ought to have been brought in according to the ſaid Rules, together with the Attorney's Names who took them out of the ſaid Offices, that this Court may proceed as they ſhall think fit againſt ſuch Perſons as ſhall not have brought in their Rolls according to the ſaid Rules. *Trin.* 2 G. 1.

Of Docketing Judgments.

On carrying in your Rolls to the Prothonotary you are to Docket them on the common Docket, in the Manner as you'll ſee others, thus:

Not informed in Debt.

Middleſex. *Weſt* for *Burton*, } Roll 225.
Parker for *Taylor*, }

The Prothonotary delivers the Rolls over to the Clerk of the Warrants, who is to inſpect the ſame, and eſtreat all Fines and Amerciaments againſt Sheriffs and others that he ſhall find amongſt the ſaid Rolls, and then to deliver them to the Clerk of the Eſſoins, who Dockets them, purſuant

to

to the Statute of 4 & 5 of *W. & M. c.* 20. then binds them up, and carries them over to the Treaſury at *Weſtminſter*.

Of Executions.

1. A *Capias ad Satisfaciendum* is a Writ which iſſues after a Judgment; and by this Writ the Sheriff is commanded to take the Body of the Defendant, and have him in Court at the Return of the Writ to ſatisfy the Plaintiff. Ca. Sa.

This Writ was by the Common Law only in Treſpaſſes, *Quare vi & Armis*, being direct and wilful Wrongs; but now by the Statute 25 *Ed.* 3. may iſſue in other Caſes. It is deemed a full Execution, and in the Law ſufficient for the whole Debt; *Corpus humanum non recipit æſtimationem*; and where the Body is taken on a *Capias ad Satisfaciendum*, no other Execution can be had againſt the Defendant's Lands or Goods. But in caſe the Defendant dies in Execution, by the Statute 21 *Jac.* 1. *c.* 24. the Plaintiff, his Executors or Adminiſtrators, may lawfully ſue forth Execution againſt the Lands and Tenements, Goods and Chattels of the Defendant ſo dying in Execution, in like Manner as if the deceaſed Defendant had never been taken in Execution: In this Caſe the Judgment muſt be revived by *Scire Facias*.

If Deft. dies in Execution, Plt. may have Execution againſt the Lands or Goods.

Fi. Fa.

2. A *Fieri Facias* is a Writ which commands the Sheriff to levy the Debt or Damages and Coſts recovered by a Judgment, of the Goods of the Defendant, and to have the ſame in Court at the Return of the Writ, to ſatisfy the Plaintiff.

Where executed after Defi's Death.

If after this Writ is ſued out, and before it is executed, the Defendant dies, it may be executed on his Goods in the Hands of his Executors or Adminiſtrators.

If only Part levied, Ca. Sa. *or* Elegit *for Reſidue.*

If only Part of the Debt or Damages be levied, the Plaintiff may have a *Ca. Sa.* or *Elegit* for the Reſidue. *Hob.* 57.

Elegit.

3. *Elegit*; this Writ is given by the Statute of *W.* 2. 13 *Ed.* 1. *c.* 18. And by this Writ the Sheriff is to deliver to the Plaintiff all the Chattels of the Defendant, except his Oxen and Beaſts of his Plough, and one Half of his Land, to hold until the Debt or Damages, and Coſts recovered, be ſatisfied, upon a reaſonable Price or Extent.

If only Part levied, Ca. Sa. *or* Fi. Fa. *for the reſt.*

If on an *Elegit* only Goods be levied, and theſe not ſufficient to ſatisfy the Judgment, the Plaintiff may have a *Capias* for the Reſidue, it being in effect but a *Fieri Facias. Hob.* 58.

If the Judgment be on a Bond with a Penalty, the Plaintiff may, as far as the Penalty will extend, levy the Poundage payable to the Sheriff, and all incident Charges of the Execution.

If Execution be not ſued out within a Year, the Judgment muſt be revived by *Scire Facias.*

Capias

Capias ad Satisfaciendum *in Debt.*

Ca. Sa. *in Debt.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriffs of *London*, Greeting. We command ye, that ye take *W. B.* late of *London*, Cabinet-Maker, otherwiſe called *W. B.* late of the Pariſh of in the County of *Middleſex*, Cabinet-Maker, if he be found in your Bailiwick, and keep him ſafely, ſo that ye may have his Body before our Juſtices at *Weſtminſter* on the Morrow of the Holy *Trinity*, to ſatisfy *R. R.* as well of a certain Debt of Fifty Pounds, which the ſaid *R.* in our Court before our Juſtices at *Weſtminſter* recovered againſt him, as of Sixty-three Shillings, which in our ſaid Court were adjudged to the ſaid *R.* for his Damages, which he had by occaſion of the Detaining that Debt, whereof the ſaid *W.* is convicted; And have there this Writ. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Day of in the Twelfth Year of our Reign.

Treſpaſs on the Caſe.

To ſatisfy *R. R.* of Fifty Pounds, which were adjudged to the ſaid *R.* in our ſaid Court, before our Juſtices at *Weſtminſter*, for his Damages which he ſuſtained by occaſion of a certain Treſpaſs on the Caſe done to the ſaid *R.* by the ſaid *W.* at *S.* in your County, whereof he is convicted;

And have you there this Writ. Witneſs, &c.

Treſpaſs on the Caſe ſur Aſſumpſit. For his Damages which he had by occaſion of the not Performing certain Promiſes and Undertakings made to the ſaid *R.* by the ſaid *W.* at *W.* in your County; whereof, &c.

Breach of Covenant. For his Damages which he had by occaſion of the not Performing a Covenant made between the ſaid *W.* and the ſaid *R.* according to the Force, Form and Effect of certain Indentures [*or Articles*] made between them; whereof, &c.

Treſpaſs and Aſſault. For his Damages which he ſuſtained by occaſion of a certain Treſpaſs and Aſſault, made on the ſaid *R.* by the ſaid *W.* with Force and Arms, and againſt our Peace, at *W.* in your County; whereof, &c.

Treſpaſs. For his Damages which he ſuſtained by occaſion of a certain Treſpaſs done to the ſaid *R.* by the ſaid *W.* with Force and Arms, and againſt our Peace, at *L.* in your County; whereof, &c.

In Ejectment for Damages. For his Damages which he ſuſtained by occaſion of a certain Treſpaſs and Ejectment of a Farm done to the ſaid *R.* by the ſaid *W.* with Force and Arms, and againſt our Peace, in your County; whereof, &c.

Replevin. For his Damages which he had by occaſion of the taking and unjuſtly detaining the Cattle of the ſaid *R.* at *W.* in a certain Place called the *H.* in your County; whereof, &c.

For his Damages which he had by occa- *Words.*
ſion of the Speaking and Publiſhing certain falſe and ſcandalous Words by the ſaid *W.* of the ſaid *R.* at *B.* in your County; whereof, *&c.*

If you make out a *Teſtatum Ca. Sa.* you Teſtatum
are to write as before, to [whereof he is con- Ca. Sa'.
victed *inclusive*] and after thoſe Words you are to proceed thus; and whereupon our Sheriff of *N.* [*the Sheriff to whom the firſt* Ca. Sa. *was directed*] ſent to our Juſtices at *Weſtminſter* at a certain Day now paſt, that the ſaid *W.* was not found in his Bailiwick, whereas it is teſtified in our ſaid Court, that he lurks and ſecretes himſelf in your County; And have there, *&c.*

If it be after a *Sci. Fa.* then after Ca. Sa. *after a*
the Words [whereof he is convicted] ſay, Sci. Fa'.
and whereupon it is conſidered in our ſaid Court, that the aforeſaid *R.* have his Execution againſt the aforeſaid *W.* of the Debt and Damages aforeſaid, by the Default of the ſaid *W.* And have there, *&c.*

GEORGE the Second, by the Grace *A* Teſtatum
of God, of *Great Britain*, *France* and Ca. Sa. *after a*
Ireland King, Defender of the Faith, *&c.* Sci. Fa. *by an*
To the Sheriff of *S.* Greeting. We com- *Adminſt.* du-
mand you, that you take *V. C.* late rante minorita-
of, *&c.* if he be found in your Baili- te Executoris
wick, and keep him ſafely, ſo that you *of an Executor.*
may have his Body before our Juſtices at *Weſtminſter* on the Octave of the Holy *Trinity* to ſatisfy *J. F.* Adminiſtrator of the Goods and Chartels which were

of *B. F.* during the Minority of *W. F.* Executor of the laſt Will and Teſtament of the ſaid *B.* late Executor of the laſt Will and Teſtament of *W. B.* deceaſed, as well of a certain Debt of Sixty Pounds, which the aforeſaid *B.* lately in our Court before our Juſtices at *Weſtminſter* recovered againſt the ſaid *V.* as of Fifteen Pounds, which in our ſaid Court were adjudged to the ſaid *B.* for his Damages which he had by occaſion of the Detaining that Debt whereof the ſaid *V.* is convicted; And whereupon it is conſidered in our ſaid Court, That the aforeſaid *J.* have his Execution againſt the ſaid *V.* of the Debt and Damages aforeſaid, by the Default of the ſaid *V.* And whereupon our Sheriffs of our City of *Exeter* have returned to our Juſtices at *Weſtminſter* at a certain Day now paſt, that the aforeſaid *V.* is not found in their Bailiwick, whereas it is teſtified in our ſaid Court, that the ſaid *V.* lurks and ſecretes himſelf in your County; And have there this Writ. Witneſs, *&c.*

Sci. Fa'.

Teſtatum.

Teſtatum Ca. Sa. *for the Reſidue after a* Fi. Fa. *in Debt.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *Lincoln*, Greeting. We command you, that you take *W. G.* late of *S.* in the County of *Leiceſter*, Gentleman, otherwiſe called *W. G.* of *S.* in the County of *Leiceſter*, Gentleman, if he ſhall be found in your Bailiwick, and keep him ſafely, ſo that you may have his Body before

fore our Juſtices at *Weſtminſter* in fifteen Days from the Day of Saint *Martin*, to ſatisfy *W. R.* Gentleman, of Eighteen Pounds nine Shillings and one Penny, Parcel of a certain Debt and Damages, *to wit*, of a certain Debt of Forty Pounds, which the ſaid *W. R.* in our Court before our Juſtices at *Weſtminſter* recovered againſt him, and of Forty Shillings which in our ſaid Court were adjudged to the ſaid *W. R.* for his Damages which he had by occaſion of the Detaining that Debt whereof the ſaid *W. G.* is convicted, of which ſaid Debt and Damages Twenty-three Pounds ten Shillings and eleven Pence, other Parcel, by Virtue of our Writ thereupon were lately made and levied of the Goods and Chattels of the ſaid *W. G.* And whereupon our Sheriff of *N.* ſent to our Juſtices at *Weſtminſter* at a certain Day now paſt, that the ſaid *W. G.* is not found in his Bailiwick, whereas it is teſtified in our ſaid Court, that the ſaid *W. G.* lies hid, wanders and ſculks in your County; And have there this Writ. Witneſs, *&c.* Teſtatum.

GEORGE the Second, *&c.* To, *&c.* Greeting. We command you, that you take *W. A.* late of, *&c.* and *W. S.* late of, *&c.* if they be found in your Bailiwick, ſo that you may have their Bodies before our Juſtices at *Weſtminſter*, on *to wit*, the ſaid *W. A.* to ſatisfy *R. B.* of Twenty Pounds, and the ſaid *W. S.* to ſatisfy the ſaid *R. B.* of Forty Pounds, for his ſeveral Dama- Ca. Sa. *againſt Two where ſeveral Damages by Inquiry in Treſpaſs and Aſſault.*

Damages which the ſaid *R.* ſuſtained by occaſion of a certain Aſſault, Beating, Wounding and ill Treatment made on the ſaid *R.* by the ſaid *W.* and *W.* and againſt our Peace with Force and Arms, at *B.* in your County, as is found by a certain Inquiſition of the Country of your County taken between them; and alſo the ſaid *W.* and *W.* to ſatisfy the ſaid *R.* of Seventeen Pounds which were adjudged to the ſaid *R.* in our ſaid Court, for his Coſts and Charges which he ſuſtained by occaſion of the Premiſſes; whereof they are convicted; And have there, *&c.*

Upon a Nonſuit in Debt.

To ſatisfy *C. D.* late of, *&c.* Eſq; of Nine Pounds and ten Shillings, which in our Court before our Juſtices at *Weſtminſter*, by the Diſcretion of the ſaid Juſtices, according to the Form of the Statute in that Caſe made and provided, were adjudged to the ſaid *C.* for his Coſts and Charges which he ſuſtained, for that that the ſaid *E. T.* did not proſecute his Writ by him the ſaid *E.* obtained in our Court againſt the ſaid *C.* in a certain Plea of Debt upon Demand for Forty Pounds, whereof the ſaid *E.* is convicted; And have there, *&c.*

If in Caſe, ſay, —— in a certain Plea of Treſpaſs on the Caſe.

In Treſpaſs, —— in a certain Plea of Treſpaſs.

In Ejectment, —— in a certain Plea of Treſpaſs and Ejectment of Farm, *et ſic de Cæteris.*

GEORGE

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, &c. To the Sheriff of *L.* Greeting. Attach *L. R.* Gentleman, one of the Attornies of our Court of the Bench, otherwiſe called *L. R.* of, &c. ſo that you may have him before our Juſtices at *Weſtminſter* on *Wedneſday* next after three Weeks of Saint *Michael*, to ſatisfy *J. S.* Gentleman, another Attorney of our Court of the Bench, as well of a certain Debt of Sixty Pounds, which the ſaid *J.* in our Court, before our Juſtices at *Weſtminſter* recovered againſt him, as of Fourteen Pounds and ten Shillings which were adjudged to the ſaid *J.* in our ſaid Court, for his Damages which he had by occaſion of the Detaining that Debt, whereof the ſaid *L.* is convicted; And whereupon our Sheriff of *M.* ſent to our Juſtices at *Weſtminſter* at a certain Day now paſt, that the ſaid *L.* was not found in his Bailiwick, whereas it was teſtified in our ſaid Court, that he lurks and ſecretes himſelf in your County; And have there this Writ. Witneſs, &c.

A Teſtatum Ca. Sa. *of Privilege for an Attorney againſt an Attorney, in Debt.*

Teſtatum.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, &c. To the Sheriffs of *N.* Greeting. Attach *W. T.* Gentleman, one of the Attornies of our Court of the Bench, otherwiſe called *W. T.* of, &c. ſo that you may have him before

A Teſtatum Ca. Sa. *by a ſurviving Plt. againſt an Attorney, in Debt.*

our Juſtices at *Weſtminſter* on next after to ſatisfy *V. D.* as well of a certain Debt of five Hundred Pounds, which the ſaid *V. D.* and one *T. J.* now deceaſed, in our Court before our Juſtices at *Weſtminſter* recovered againſt him, as of Nine Pounds which in our ſaid Court were adjudged to the ſaid *V.* and *T.* for their Damages which they had by occaſion of the Detaining that Debt, whereof the ſaid *W.* is convicted; And whereupon it is conſidered in our ſaid Court, that he the ſaid *V.* have Execution againſt the ſaid *W.* of the Debt and Damages aforeſaid, by the Default of the ſaid *W.* And whereupon our Sheriffs of *London* ſent to our Juſtices at *Weſtminſter* on a certain Day now paſt, that the ſaid *W.* was not found in their Bailiwick, whereas it is teſtified in our ſaid Court, that the ſaid *W.* lurks and ſecretes in your County; And have there this Writ. Witneſs, *&c.*

Si. Fa'.

Teſtatum.

Teſtatum Ca. Sa. *againſt Bail after* Nulla Bona *returned on a* Fi. Fa'. *Recital of* Fi. Fa'.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *Surry*, Greeting. Whereas we lately commanded our Sheriff of *Middleſex*, that he ſhould cauſe to be made of the Lands and Chattels in his Bailiwick of *T. S.* late of, *&c.* Thirty-eight Pounds; and of the Lands and Chattels in his Bailiwick of *F. F.* late of, *&c.* other Thirty-eight Pounds; and of the Lands and Chattels in his Bailiwick of *T. P.*

T. P. late of, &c. other Thirty-eight Pounds. Which ſaid ſeveral Sums of Thirty-eight Pounds each of them the ſaid *T. S. F.* and *T. P.* heretofore, *to wit*, in the Term of the Holy *Trinity* in the Year of our Reign, before Sir *Robert Eyre*, Knight, and his Companions, then our Juſtices of the Bench at *Weſtminſter*, ſeverally acknowledged themſelves to owe to *E. P.* and *W. F.* to be made of their Lands and Chattels, and to the Uſe and Behoof of the ſaid *E. P.* and *W. F.* to be levied; which ſaid Recognizance in that ſame Term at *Weſtminſter* aforeſaid is inrolled, as by the ſaid Record and Proceedings thereon in our ſame Court, before our ſaid Juſtices at *Weſtminſter* aforeſaid remaining manifeſtly appears; and that he ſhould have that Money before our ſaid Juſtices at *Weſtminſter* from the Day of *Eaſter* in fifteen Days laſt paſt, to render to the ſaid *E.* and *W.* for the ſeveral Sums of Money aforeſaid, according to the Form of the ſaid Recognizance whereof they were convicted; and whereupon it is conſidered in our ſaid Court, that the ſaid *E.* and *W.* ſhould have their Execution againſt the aforeſaid *T. S. F.* and *T. P.* of the ſaid ſeveral Sums of Thirty-eight Pounds by them in Form aforeſaid acknowledged, by the Default of them the ſaid *T. S. F.* and *T. P.* And *Return.* whereupon our Sheriff of *Middleſex* at that Day ſent to our ſaid Juſtices at *Weſtminſter*, that the ſaid *T. S. F.* and *T. P.* had not

not, nor had any one of them any Lands or Chattels in his Bailiwick, whereof he was able to make the ſaid ſeveral Sums of 38 *l.* 38 *l.* and 38 *l.* or any Part thereof: We therefore command you, that you take the ſaid *T. S. F.* and *T. P.* if they may be found in your Bailiwick, and keep them ſafely, ſo that you may have their Bodies before our Juſtices at *Weſtminſter* on the Morrow of the Holy *Trinity*, to ſatisfy the aforeſaid *E.* and *W.* of the ſaid ſeveral Sums of Thirty-eight Pounds, according to the Form of the ſaid Recognizance, whereof they are convicted; And whereupon our ſaid Sheriff of *Middleſex* ſent to our ſaid Juſtices at *Weſtminſter* from the Day of *Eaſter* in five Weeks laſt paſt, that the aforeſaid *T. S. F.* and *T. P.* were, nor was any one of them found, in his Bailiwick, whereas it is teſtified in our ſaid Court, that they lurk and ſecrete themſelves in your County; And have there, *&c.*

Teſtatum.

Teſtatum Ca. Sa. *againſt an Executor after a* Devaſtavit, *and* Nulla bona *returned.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *D.* Greeting. Whereas we lately by our Writ commanded our Sheriff of *M.* that of the Goods and Chattels in his Bailiwick, which were of *S. V.* late of, *&c.* at the Time of his Death, in the Hands of *V. C.* Gentleman, late of, *&c.* Executor of the laſt Will and Teſtament of the ſaid *S.* he ſhould cauſe to be made,

made, as well a certain Debt of five Hundred Pounds, which *W. W.* in our Court before our Justices at *Westminster* recovered against the said *V. C.* as also Eighteen Pounds which in our said Court were adjudged to the said *W.* for his Damages which he had by occasion of the Detaining that Debt, if the said *V.* had so much in his Hands to be administer'd; and if he had not, then the said Damages to be levied of the proper Goods and Chattels of the said *V.* and should have that Money before our Justices at *Westminster* on the Morrow of the Purification of the Blessed *Mary* last past, to render to the said *W.* for his Debt and Damages aforesaid, whereof he is convicted; and our said Sheriff of *M.* at that Day sent to our said Justices at *Westminster*, that the said *V. C.* had before the Coming of the said Writ sold and wasted diverse Goods and Chattels which were of the said *S. V.* at the Time of his Death, to the Value of the Debt and Damages aforesaid, and had converted the Money arising therefrom to his own proper Use, so that he could not levy, or cause to be made the said Debt and Damages of the Goods and Chattels of the said *S. V.* And the said *V. C.* had no Goods or Chattels of his own proper Goods and Chattels in his Bailiwick, whereof he could cause to be made the said Damages, or any Part thereof, as by that Writ he was commanded; Therefore we command you, that you take the said *V. C.* if he may be found in your

your Bailiwick, and keep him ſafely, ſo that you may have his Body before our Juſtices at *Weſtminſter* on the Morrow of the *Aſcenſion* of our Lord, to ſatisfy the ſaid *W.* of the Debt and Damages aforeſaid; And whereupon our Sheriff of *M.* from the Day of *Eaſter* in fifteen Days laſt paſt ſent to our Juſtices at *Weſtminſter*, that the ſaid *V. C.* was not found in his Bailiwick, whereas it is teſtified in our ſaid Court, that the ſaid *V. C.* lurks and ſecretes himſelf in your County; And have there this Writ. Witneſs, *&c.*

Teſtatum.

Ca. Sa. ſur Fi. Fa. Ubi Vic. retorn. Devaſtavit ſur Fi. Fa. & Inquiſit. Capt. quod bona elongat' fuer. Teſtatum Fi. Fa'.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *N.* Greeting. Whereas by our Writ we lately commanded you, that of the Goods and Chattels in your Bailiwick, which were of *W. P.* of, *&c.* at the Time of his Death in the Hands of *W. G.* late of, *&c.* Executor of the laſt Will and Teſtament of the ſaid *W. P.* you ſhould cauſe to be made as well a certain Debt of Ninety Pounds, which *R. M.* and *M.* his Wife, in our Court before our Juſtices at *Weſtminſter* recovered againſt him, as Fourteen Pounds which were adjudged to the ſaid *R.* and *M.* in our ſaid Court for their Damages which they had by occaſion of the Detaining that Debt, if the ſaid *W. G.* had ſo much of the Goods and Chattels which were of the ſaid *W. P.* at the Time of his Death in his Hands to be admi-

adminiſter'd; and if he had not, then the ſaid Damages to be levied of the proper Goods and Chattels of the ſaid *W. G.* and ſhould have that Money before our ſaid Juſtices at *Weſtminſter* on the Octave of the Purification of the Bleſſed *Mary* laſt paſt, to render to the ſaid *R.* and *M.* for their Debt and Damages aforeſaid, whereof the ſaid *W. G.* is convicted; And whereupon our Sheriff of *S.* heretofore ſent to our ſaid Juſtices at *Weſtminſter*, that the ſaid *W. G.* had no Goods or Chattels in his Bailiwick whereof he could cauſe to be made the ſaid Debt and Damages, or any Parcel thereof; whereas it was teſtified in our ſaid Court, that the ſaid *W. G.* had ſufficient Goods and Chattels which were of the ſaid *W. P.* in your Bailiwick, whereof the ſaid Debt and Damages, and every Part thereof, might be cauſed to be made. And you at that Day ſent to our Juſtices at *Weſtminſter*, that by Virtue of the ſaid Writ to you directed, you had cauſed to be made of the proper Goods and Chattels of the ſaid *W. G.* the ſaid Fourteen Pounds of Damages aforeſaid, and had the ſame ready at the ſaid Day and Place before our ſaid Juſtices at *Weſtminſter*, to render to the ſaid *R.* and *M.* And that the ſaid *W. G.* had not in your Bailiwick any Goods or Chattels which were of the ſaid *W. P.* at the Time of his Death, in his Hands, whereof you could cauſe to be made the ſaid Debt, or any Part thereof, as by the ſaid Writ you was commanded. And becauſe

Return Damages levied de bonis propriis Execut. *as to Debt* Nulla bona Teſtatoris.

cauſe the ſaid Return was conceived to be in Delay of the ſaid Execution; and in our ſaid Court before our Juſtices at *Weſtminſter* it appeared on the Behalf of the ſaid *R.* and *M.* that the ſaid *W. G.* had ſold diverſe Goods and Chattels which were of the ſaid *W. P.* at the Time of his Death in his Hand to be adminiſter'd, and the Money received thereon to his own proper Uſe had applied and diſpoſed; and that the Reſidue of the ſaid Goods and Chattels which were of the ſaid *W. P.* at the Time of his Death in the Hands of the ſaid *W. G.* to be adminiſter'd, had been eloined to the Intent that the ſaid Execution thereof might not be made; And we willing that thoſe Things, which in our ſaid Court before our ſaid Juſtices at *Weſtminſter* have been rightly acted, ſhould not be rendered Void by Art or Deceit, commanded you by our Writ, that of the Goods and Chattels in your Bailiwick, which were of the ſaid *W. P.* at the Time on his Death in the Hands of the ſaid *W. G.* to be adminiſter'd, you ſhould cauſe to be made the Debt aforeſaid, if it could be thereof levied, and have the Money thereon levied before our ſaid Juſtices at *Weſtminſter* from the Day of the Holy *Trinity* in three Weeks laſt paſt, to render to the ſaid *R.* and *M.* for the Debt aforeſaid; and if it could not be thereof levied, then if it ſhould appear to you by Inquiſition, on the Oath of good and lawful Men of your Bailiwick in that Behalf to be taken,

Devaſtavit *ſuggeſted.*

Fi. Fa. ſi, *&c.*

Si non, *&c.* tunc ſi per Inquiſitionem conſtare poterit quod Def. Devaſt',

ken, or by any other Manner whereby it might be better certified, that the ſaid *W. G.* had ſold, eloined or converted to his own Uſe, Goods and Chattels which were of the ſaid *W. P.* at the Time of his Death, in the Hands of the ſaid *W. G.* to be adminiſter'd, to the Value of the ſaid Debt, or any Part thereof, That by good and lawful Men of your Bailiwick you ſhould make known to the ſaid *W. G.* that he ſhould be before our Juſtices at *Weſtminſter* at the ſaid Time, to ſhew if any Thing he had for himſelf, or knew to ſay why the ſaid *R.* and *M.* ought not to have Execution againſt him of the Debt aforeſaid, to be levied of the proper Goods and Chattels of the ſaid *W. G.* if it ſhould ſeem expedient, *&c.* And you at that Day ſent to our ſaid Juſtices at *Weſtminſter*, that the ſaid *W. G.* had not in your Bailiwick any Goods or Chattels which were of the ſaid *W. P.* at the Time of his Death, whereof you could cauſe to be made the ſaid Debt, or any Parcel thereof, and that by *F. A.* and *R. R.* good and lawful Men of your Bailiwick, you had made known to the ſaid *W. G.* that he ſhould be before our ſaid Juſtices at *Weſtminſter* at the Day and Place aforeſaid, to ſhew in Form aforeſaid, and that by a certain Inquiſition taken before you, at on the Day of laſt paſt, taken on the Oaths of Twelve, *&c.* it was found that the ſaid *W. G.* had ſold, eloined and converted to his own proper Uſe, Goods and Chattels which

Sci. Fa'.

Nulla bona *and* Devaſtavit *returned.*

which were of the ſaid *W. P.* to the Value of the Debt aforeſaid; Therefore we command you, that you take the ſaid *W. G.* if he may be found in your Bailiwick, and keep him ſafely, ſo that you may have his Body before our Juſtices at *Weſtminſter* on the Octave of Saint *Martin*, to ſatisfy the ſaid *R.* and *M.* of the Debt aforeſaid, whereof he is convicted; And whereupon it is conſidered in our ſaid Court, that the ſaid *R.* and *M.* have their Execution againſt the ſaid *W. G.* by the Default of the ſaid *W. G.* And have there, *&c.* Witneſs, *&c.*

Ca. Sa'.

Ca. Sa. *for Damages againſt an Executrix after* Nulla bona propria *returned.*

GEORGE the Second, *&c.* to the Sheriff of *K.* Greeting. Whereas we lately by our Writ commanded you, that of the Goods and Chattels in your Bailiwick, which were of *N. R.* deceaſed, at the Time of his Death, being in the Hands of *M. R.* late of *N.* in your County, Widow, Executrix of the laſt Will and Teſtament of the ſaid *N.* to be adminiſter'd you ſhould cauſe to be made Thirty-four Pounds, which in our Court, before our Juſtices at *Weſtminſter* were adjudged to *R. B.* for his Damages which he ſuſtained by occaſion of the not performing certain Promiſes and Undertakings made to the ſaid *R.* by the ſaid *N.* in his Life-time at *M.* in your County, if the ſaid *M.* had ſo much thereof in her Hands to be adminiſter'd; and if ſhe had not, then Fourteen Pounds and ten Shillings of the Damages aforeſaid to be levied of the proper Goods and Chattels of the ſaid *M.* and

ſhould have that Money before our Juſtices at *Weſtminſter* from the Day of the Holy *Trinity* in three Weeks laſt paſt, to render to the ſaid *R.* for his Damages aforeſaid, whereof ſhe is convicted; and you at that Day ſent to our ſaid Juſtices at *Weſtminſter*, that the ſaid *M.* had no Goods or Chattels in your Bailiwick which were of the ſaid *N.* at the Time of his Death, whereof you could cauſe to be made the ſaid Damages, or any Penny thereof, nor any of her own proper Goods or Chattels in your ſaid Bailiwick, whereof you could cauſe to be made the ſaid Fourteen Pounds and ten Shillings of Damages aforeſaid, or any Penny thereof; we therefore command you, that you take the ſaid *M.* if ſhe may be found in your Bailiwick, and keep her ſafely, ſo that you may have her Body before our Juſtices at *Weſtminſter* from the Day of Saint *Michael* in three Weeks, to ſatisfy the ſaid *R.* of the ſaid Fourteen Pounds and ten Shillings of Damages aforeſaid; And have there this Writ. Witneſs, *&c.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *Lincoln*, Greeting. We command you, that you cauſe to be made of the Goods and Chattels in your Bailiwick of *B. C.* late of, *&c.* as well a certain Debt of Twenty Pounds which *D. E.* in our Court, before our Juſtices at *Weſtminſter* recovered againſt him,

A Fieri Facias *in Debt.*

as Sixty Shillings which were adjudged to the ſaid *D.* in our ſaid Court, for his Damages which he had by occaſion of the Detaining that Debt; And have that Money before our Juſtices at *Weſtminſter* on the Morrow of the *Aſcenſion* of our Lord, to render to the ſaid *D.* for his Debt and Damages aforeſaid, whereof the ſaid *B.* is convicted; And have there this Writ. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Day of, *&c.*

For varying the *Fieri Facias* according to the Nature of the Action, the Directions before given, *fol.* 209, 210. for making out the *Capias ad Satisfaciendum* will ſerve.

Teſtatum Fi. Fa'. In a *Teſtatum Fieri Facias*, after the Words [*whereof he is convicted*] ſay, and whereupon our Sheriff of *N.* ſent to our Juſtices at a certain Day now paſt, that the ſaid *B.* has no Goods or Chattels in his Bailiwick, whereof he could cauſe to be made or levied the ſaid Debt and Damages, or any Part thereof, whereas it is teſtified in our ſaid Court, that the ſaid *B.* has ſufficient Goods and Chattels in your County whereof the ſaid Debt and Damages may be cauſed to be made and levied; And have there this Writ. Witneſs, *&c.*

Fi. Fa. *againſt an Adminiſtratrix.* *GEORGE* the Second, *&c.* To, *&c.* Greeting. We command you, that of the Goods and Chattels in your Bailiwick, which were of *S. H.* deceaſed, at the Time of

of his Death, in the Hands of *E. H.* late of, *&c.* Widow, Adminiſtratrix of the Goods and Chattels which were of the ſaid *S. H.* to be adminiſter'd, you cauſe to be made as well a certain Debt of Thirty Pounds, which *R. F.* Gentleman, in our Court before our Juſtices at *Weſtminſter* recovered againſt her, as Ten Pounds which in our ſaid Court were adjudged to the ſaid *R.* for his Damages which he had by occaſion of the Detaining that Debt, if the ſaid *E.* has ſo much Goods and Chattels which were of the aforeſaid *S.* at the Time of his Death in her Hands to be adminiſter'd; and if ſhe has not, then the Damages aforeſaid to be levied of the proper Goods and Chattels of the ſaid *E.* And have that Money before our Juſtices at *Weſtminſter* on the Morrow of the Holy *Trinity*, to render to the ſaid *R.* for the Debt and Damages aforeſaid [*if the Action is not in Debt, you only ſay for the Damages aforeſaid*] whereof ſhe is convicted; And have there this Writ. Witneſs, *&c.*

GEORGE the Second, *&c.* To, *&c.* Greeting. We command you, that of the Goods and Chattels in your Bailiwick of *J. M.* late of, *&c.* and *Elizabeth* his Wife, lately called, *&c.* you cauſe to be made Twenty and five Pounds and ten Shillings which in our Court, before our Juſtices at *Weſtminſter* were adjudged to *J. J.* and *R. R.* for their Damages which they ſuſtained by occaſion of the not performing

Teſtatum Fi. Fa. *after* Sci. Fa. *in caſe on* Aſſumpſit *upon a Recovery againſt the Wife while ſole.*

certain Promiſes and Undertakings to the ſaid *J.* and *R.* by the ſaid *E.* when ſhe was ſole, made at *B.* in the County of *S.* And have that Money before our Juſtices at *Weſtminſter* from the Day of the Holy *Trinity* in three Weeks, to render to the ſaid *J.* and *R.* for their Damages aforeſaid, whereof the ſaid *E.* is convicted; And whereupon it is conſidered in our ſaid Court, that the ſaid *J.* and *R.* have their Execution againſt the ſaid *J. M.* and *E.* of the Damages aforeſaid, by the Default of the ſaid *J. M.* and *E.* And whereupon our Sheriff of *S.* at a certain Day now paſt, ſent to our Juſtices at *Weſtminſter*, that the ſaid *J. M.* and *E.* had no Goods or Chattels in his Bailiwick, whereof the ſaid Damages could be made, whereas it is teſtified in our ſaid Court, that the ſaid *J. M.* and *E.* have ſufficient Goods and Chattels in your County, whereof the ſaid Damages may be made, And have there this Writ. Witneſs, *&c.*

Sci. Fa'.

Teſtatum.

Fi. Fa. *on a Judgment by a* Feme *Executrix while ſole, whereupon Execution is awarded on a* Sci. Fa. *at the Suit of the Huſband and Wife.*

GEORGE the Second, *&c.* To, *&c.* We command you, that of the Goods and Chattels of *W. C.* late of, *&c.* otherwiſe called, *&c.* in your Bailiwick, you cauſe to be made as well a certain Debt of one Hundred and ſixty Pounds, which *E. W.* Widow, Executrix of the laſt Will and Teſtament of *S. W.* deceaſed, in our Court, before our Juſtices at *Weſtminſter* recovered againſt him, as Sixty Shillings, which to the ſaid *E.* in our ſaid Court were adjudged for her Damages, which ſhe had by

by occaſion of the Detaining that Debt; And have that Money before our Juſtices at *Weſtminſter* on the Octave of the Purification of the Bleſſed Virgin *Mary*, to render to *R. W.* whom the ſaid *E.* married after the ſaid Judgment was given, and to the ſaid *E.* for the Debt and Damages aforeſaid, whereof the ſaid *W.* is convicted; Sci. Fa. And whereupon in our ſaid Court before our Juſtices at *Weſtminſter* it is conſidered that the ſaid *R.* and *E.* have Execution againſt the ſaid *W.* of the Debt and Damages aforeſaid, by the Default of the ſaid *W.* And have their this Writ. Witneſs, *&c.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *Middleſex*, Greeting. We command you, that you cauſe to be made of the Lands and Chattels in your Bailiwick, of *T. S.* late, *&c.* Gentleman, Thirty-eight Pounds; And of the Lands and Chattels in your Bailiwick of *F. F.* late, *&c.* Smith, other Thirty eight Pounds; And of the Lands and Chattels in your Bailiwick of *T. P.* late of, *&c.* other Thirty eight Pounds. Which ſaid ſeveral Sums of Thirty-eight Pounds each of them the ſaid *T. S. F.* and *T. P.* heretofore, *to wit*, in the Term of the Holy *Trinity* in the Year of our Reign, before Sir *Robert Eyre*, Knight, and his Companions, then our Juſtices of the *A* Fieri Facias *againſt Bail after* Sci. Fa'.

Bench at *Weſtminſter*, ſeverally acknowledged themſelves to owe to *E. P.* and *W. F.* to be made of their Lands and Chattels, and to the Uſe and Behoof of the ſaid *E. P.* and *W. F.* to be levied; which ſaid Recognizance in that ſame Term at *Weſtminſter* aforeſaid is inrolled, as by the ſaid Record and Proceedings therein in our ſaid Court before our Juſtices aforeſaid remaining manifeſtly appears; And have that Money before our Juſtices at *Weſtminſter* from the Day of *Eaſter* in fifteen Days, to render to the ſaid *E.* and *W.* for the Debt aforeſaid, according to the Form of the ſaid Recognizance, whereof they are convicted; And whereupon it is conſidered in our ſaid Court, that the ſaid *E.* and *W.* have Execution againſt the aforeſaid *T. S. F.* and *T. P.* of the ſaid ſeveral Sums of Thirty-eight Pounds by them in Form aforeſaid acknowledged, by the Default of them the ſaid *T. S. F.* and *T. P.* And have there this Writ. Witneſs, *&c.*

Sci. Fa'.

The firſt *Fieri Facias* muſt be directed to the Sheriff of the County where the Action was laid; and on a Return of *Nulla bona* you may have Execution into any other County you ſhall think proper.

Elegit *in Debt.*

GEORGE the Second, *&c.* To, *&c.* Greeting. Whereas *E. F.* lately in our Court before our Juſtices at *Weſtminſter*, by the Conſideration of the ſaid Court, recovered againſt *B. C.* late of, *&c.* as well

a

a certain Debt of Fifty Pounds, as ten Shillings, which in our ſaid Court were adjudged to the ſaid *E.* for his Damages which he had by occaſion of the Detaining that Debt, whereof the ſaid *B.* is convicted. The ſaid *E.* afterwards came into our Court, and by the Statute in that Caſe made and provided choſe to have deliver'd to him all the Goods and Chattels of the ſaid *B.* except his Oxen and the Beaſts of his Plow, and alſo a Moiety of all his Lands and Tenements in your Bailiwick, to hold to him the Goods and Chattels aforeſaid, as his own proper Goods and Chattels; and alſo to hold the ſaid Moiety as his Freehold to him and his Aſſigns, according to the Form of the ſaid Statute, until the ſaid Debt and Damages ſhall [illegible] levied; And thereof we command you, that all the ſaid Goods and Chattels of the ſaid *B.* except the Oxen and Beaſts of his Plow, and alſo a Moiety of all his Lands and Tenements in your Bailiwick, whereof the ſaid *B.* in eight Days of St. *Hilary* in the Year of our Reign, on which Day the ſaid Judgment was given, or at any Time after, was ſeiſed, you cauſe to be delivered by reaſonable Price and Extent, to hold to him the ſaid Goods and Chattels as his own proper Goods and Chattels; and to hold the ſaid Moiety as his Freehold to him and his Aſſigns, according to the Form of the ſaid Statute, until the Debt and Damages ſhall be thereof levied; And

in what Manner you ſhall execute this Writ make appear to our Juſtices at *Weſtminſter*, from the Day of Saint *Michael* in three Weeks, under your Seal, and the Seals of them, by whoſe Oath you ſhall make the ſaid Extent and Appraiſement; And have there this Writ. Witneſs, *&c.*

Elegit *in Treſpaſs.*

GEORGE the Second, *&c.* To, *&c.* Greeting. Whereas *L. R.* lately in our Court before our Juſtices at *Weſtminſter*, by the Conſideration of the ſaid Court, recovered againſt *H. H.* late of, *&c.* Thirty-five Pounds, which in our ſaid Court were adjudged to the ſaid *L.* for his Damages, which he had by occaſion of a certain Treſpaſs done to the ſaid *L.* by the ſaid *H.* with Force and Arms and againſt our Peace at *W.* in your County, whereof the ſaid *H.* is convicted. The ſaid *L.* afterwards came into our Court, *&c.* [*as before uſing the Word* Damages *inſtead of* Debt and Damages.]

Elegit *after a* Sci. Fa'.

GEORGE the Second, *&c.* To, *&c.* Greeting. Whereas lately in our Court before our Juſtices at *Weſtminſter* it was conſidered, that *E. S.* have Execution againſt *H. S.* late of, *&c.* otherwiſe called, *&c.* by the Default of the ſaid *H. S.* as well of a certain Debt of Twenty Pounds, which the ſaid *E.* in our Court before our Juſtices at *Weſtminſter* recovered againſt the ſaid *H.* as of Fifty Shillings, which to the ſaid *E.* in our ſaid Court were adjudged to the ſaid *E.* for his Damages, which he had by occaſion of detaining that

Debt, whereof the ſaid *H.* is convicted. The ſaid *E.* afterwards came, *&c. as before.*

Elegit *after a* Fi. Fa. *againſt Executors.*

GEORGE the Second, *&c.* To, *&c.* Greeting. Whereas by our Writ we lately commanded our Sheriffs of *London*, that of the Goods and Chattels in their Bailiwick, which were of *H. B.* late of, *&c.* at the Time of his Death, in the Hands of *R. B.* late of, *&c.* and *W. B.* late of, *&c.* Executors of the laſt Will and Teſtament of the ſaid *H. B.* to be adminiſter'd, they ſhould cauſe to be made a certain Debt of two Hundred Pounds, which *W. S.* in our Court before our Juſtices at *Weſtminſter* recovered againſt them, and ten Pounds and nine Shillings, which in our ſaid Court were adjudged to the ſaid *W.* for his Damages, which he had by occaſion of the Detaining that Debt, to be levied of the ſaid Goods and Chattels, if they had ſo much thereof in their Hands to be adminiſter'd; and if they had not, then the ſaid Damages to be levied of their own proper Goods and Chattels; And ſhould have that Money before our Juſtices at *Weſtminſter* in (*the Return*) laſt paſt, to render to the ſaid *W. S.* for the Debt and Damages aforeſaid, whereof the ſaid *R. B.* and *W. B.* are convicted. And the ſaid Sheriffs at that Day ſent to our ſaid Juſtices at *Weſtminſter*, that the ſaid *R. B.* and *W. B.* on the Day of obtaining the Original Writ of the ſaid *W. S. to wit*, on the Day of *&c.* had diverſe Goods and Chat-

Chattels which were of the ſaid *H. B.* at the Time of his Death in their Hands to be adminiſter'd, to the Value of two Hundred Pounds, whereof they could have ſatisfied the ſaid *W. S.* for the Debt aforeſaid, as is found by a certain Jury of the County, by our Writ of *Niſi Prius*, taken at the *Guildhall* of the City of *London* before Sir our Chief Juſtice of the Bench, *S. M.* Gentleman, being aſſociated to him, according to the Form of the Statute in that Caſe made and provided; which ſaid Goods and Chattels the ſaid *R. B.* and *W. B.* had waſted and converted to their own Uſe; by which they could not cauſe the Debt and Damages aforeſaid, or any Part thereof, to be made of the ſaid Goods and Chattels. And further, our ſaid Sheriffs of *London* then returned, that the ſaid *R. B.* and *W. B.* had not any Goods or Chattels in their Bailiwick, whereof they could cauſe the Damages aforeſaid, or any Part thereof, to be made, as by the ſaid Writ they were commanded; by which it was conſidered in our ſaid Court, that the ſaid *W. S.* have Execution againſt the ſaid *R. B.* and *W. B.* of the Debt and Damages aforeſaid, to be levied of the proper Goods and Chattels of the ſaid *R. B.* and *W. B.* And the ſaid *W. S.* afterwards came into our ſaid Court, and by the Statute in that Caſe made and provided choſe to be delivered to him all the Goods and Chattels of the ſaid *R. B.* and *W. B.* except their Oxen and the Beaſts of their

their Plow, and alſo a Moiety of all their Lands and Tenements in your Bailiwick, to hold the Goods and Chattels aforeſaid as his own proper Goods and Chattels, and the Moiety aforeſaid as his Freehold, to him and his Aſſigns, according to the Form of the ſaid Statute, until the ſaid Debt and Damages ſhall be thereof levied. We therefore command you, that all the Goods and Chattels of the ſaid *R. B.* and *W. B.* except their Oxen and the Beaſts of their Plow, and alſo a Moiety of all their Lands and Tenements in your Bailiwick whereof the ſaid *R. B.* and *W. B.* in eight Days of Saint *Hilary* laſt paſt, or at any Time ſince were ſeiſed, you cauſe to be delivered to the ſaid *W. S.* by a reaſonable Price and Extent, to hold the ſaid Goods and Chattels to him as his own proper Goods and Chattels, and the ſaid Moiety as his Freehold, to him and his Aſſigns, according to the Form of the ſaid Statute, until the ſaid Debt and Damages ſhall be thereof levied; And in what Manner you ſhall execute this Writ, *&c. ut antea.*

Officina Brevium, *fol* 77.

May have ſeveral Elegits.

A Man may award on the Roll *Elegits* into as many Counties as he pleaſes, and execute all or any at his Pleaſure; but it is ſaid, if he awards an *Elegit* into one County, extends the Lands upon the Writ, and afterwards files it, he is barred, and cannot ſue out an *Elegit* into any other County.

Where

Where by Inquiſition on an *Elegit* it is found, that the Plaintiff was ſeiſed of the Lands at the Time the Judgment was given, upon an Ejectment (which muſt be) brought to recover the Poſſeſſion, the Plaintiff need only give in Evidence the Copy of the Judgment, *Elegit* and Inquiſition thereupon filed, and is not bound to prove the Party ſeiſed at the Time of the Judgment; and if he was not ſeiſed, it muſt be proved by the other Side.

Of PROCEEDINGS *for and againſt* Attornies.

WHERE an Attorney is Plaintiff, the firſt Proceſs is an Attachment of Privilege, which is in the following Form:

Attachment for an Attorney.

GEORGE the Second, *&c.* To, *&c.* Greeting. We command you, that you attach *T. R.* ſo that you may have h m before our Juſtices at *Weſtminſter* on *Saturday* next after three Weeks from the Day of St. *Michael*, to anſwer *S. B.* Gentleman, one of the Attornies of our Court of the Bench here, according to the Liberties and Privileges of the ſame Court for ſuch Attornies and other Miniſters of the ſame Bench from Time out of Mind uſed and approved in the ſame, of a Plea of Treſpaſs [*as the Action is.*] And have you there this Writ. Witneſs Sir *John Willes*, Knight,

Knight, at *Weſtminſter*, the Day of in the Year of our Reign.

Borret.

If the Writ requires Bail you muſt mark the Sum ſworn to on the Back, thus: — Affidavit for 42 *l.* — And alſo the Day it is ſued out.

You muſt make out a *Præcipe*, containing the Plaintiff's and Defendants Names, not exceeding Four in the Whole, with the Return of the Writ, Day of ſigning, and the Agent's or Attorney's Name who ſues out the ſame; this *Præcipe* you muſt leave with the Prothonotary, who without Fee or Reward is to enter the ſame on a Remembrance Roll, to be kept in his Office for that Purpoſe; and he is not to ſign any Attachment of Privilege unleſs ſuch *Præcipe* be left in his Office at the Time of ſigning thereof. *Hil.* 11 *Geo.* 2.

Præcipe *to be left with the Prothonotary at the Time of ſigning the Writ.*

The Form of the Præcipe.

Suffolk. Attachment of Privilege for *S. B.* Gentleman, one of the Attornies, *&c.* againſt *T. R.* Debt.

R. R. Agent, 7 *Oct.* 1738. *Ret.* Saturday *after three Weeks of St.* Michael.

Affidavit for 42 *l.*

You pay nothing to the Prothonotary for ſigning this Writ, and only one Penny for the Seal.

If

Of appearing putting in Bail thereto.

If the Attachment requires only a Common Appearance, a Copy muſt be ſerved with a Notice, as in *fol.* 62. and the Appearance muſt be entered with the Prothonotary who ſigned the Writ, and if it requires Bail, his Clerk of the Dockets prepares the Bail-Piece or Recognizance, and attends a Judge or the Court, when the ſame is entered into, and the Bail juſtify, or freſh Bail is added, in the ſame Manner as the Filacer does on meſne Proceſs by Original.

The Declaration at the Suit of an Attorney begins in this Manner:

Cooke.

Eaſter *Term in the Twelfth Year of the Reign of King* George *the Second.*

Declaration by an Attorney for Fees and Diſburſements.

Middleſex, *to wit,* P. *B.* late of, *&c.* was attached by a Writ of our Lord the King of Privilege, iſſuing out of the Court here to anſwer *L. R.* Gentleman, one of the Attornies of the Court of our Lord the King of the Bench here, according to the Liberties and Privileges of the ſame Court, for ſuch Attornies and other Miniſters of the ſame Bench Time out of Mind uſed and approved in the ſame, of a Plea of Treſpaſs on the Caſe, *&c.* And whereupon the ſaid *L.* in his proper Perſon complains, that whereas the ſaid *P.* on the Nineteenth Day of *December* in the Year of our Lord one Thouſand ſeven Hundred and thirty-eight, at the Pariſh of Saint *Clement Danes* in the Coun-

County of *Middleſex*, was indebted to the ſaid *L.* in Thirty Pounds of lawful Money of *Great Britain*, for Work and Labour as an Attorney and Solicitor before that Time done and performed by the ſaid *L.* upon the Retainer, and at the ſpecial Inſtance and Requeſt, of the ſaid *P.* in and about the proſecuting, defending and ſoliciting diverſe Cauſes, Suits and Buſineſſes, and for Money laid out, expended and paid by the ſaid *L.* at the like ſpecial Inſtance and Requeſt of the ſaid *P.* in and about the proſecuting, defending and ſoliciting of thoſe Cauſes, Suits and Buſineſſes, and for Money due to the ſaid *L.* for his Fees due, and of Right payable to him in that reſpect, and being ſo indebted, he the ſaid *P.* in Conſideration thereof afterwards, *to wit*, on the ſame Day and Year, at the Pariſh aforeſaid in the County aforeſaid, undertook, and then and there faithfully promiſed the ſaid *L.* that he the ſaid *P.* would pay to the ſaid *L.* the ſaid Sum of Money when he ſhould be thereunto requeſted. *And whereas* the ſaid *P.* afterwards, *to wit*, on the ſame Day and Year, at the Pariſh aforeſaid in the County aforeſaid, in Conſideration that the ſaid *L.* upon the Retainer of the ſaid *P.* and at his ſpecial Inſtance and Requeſt, had before that Time done and performed other Work and Labour as an Attorney and Solicitor in and about other Cauſes, Suits and Buſineſſes, and laid out, expended, and paid other Money in and about the

Quantum Meruit *thereon.*

the profecuting, defending and ſoliciting of thoſe Cauſes, Suits and Buſineſſes, undertook, and then and there faithfully promiſed the ſaid *L.* that he the ſaid *P.* would pay to the ſaid *L.* ſo much Money as he reaſonably deſerved to have for his laſt mentioned Work and Labour; and ſo much Money as he had laid out, expended and paid in and about the profecuting, defending and ſoliciting the ſaid laſt mentioned Cauſes, Suits and Buſineſſes, and ſo much Money as was due to the ſaid *L.* for his Fees due, and of Right payable to him in that reſpect, when the ſaid *P.* ſhould be thereunto requeſted. And the ſaid *L.* avers, that he reaſonably deſerved of the ſaid *P.* for his ſaid laſt mentioned Work and Labour, other Thirty Pounds of like lawful Money, and that he had ſo laid out, expended and paid in and about the ſaid profecuting, defending and ſoliciting the ſaid laſt mentioned Cauſes, Suits and Buſineſſes, Thirty Pounds of like lawful Money; and that Twenty Pounds of like lawful Money were due to the ſaid *L.* for his Fees due, and of Right payable to him in that reſpect, *to wit*, at the Pariſh aforeſaid in the County aforeſaid, whereof the ſaid *P.* then and there had Notice.

Indeb. Aſſump. *for Money laid out.*

And whereas alſo the aforeſaid *P.* afterwards, *to wit*, on the ſame Day and Year, at the Pariſh aforeſaid in the County aforeſaid, was indebted to the ſaid *L.* in Fourteen Pounds of like lawful Money, for the like Sum of Money by the ſaid *L.* at the like

like ſpecial Inſtance and Requeſt of the ſaid *P.* before that Time expended, laid out, diſburſed, and paid, and being ſo indebted the ſaid *P.* afterwards, *to wit*, on the ſame Day and Year at the Pariſh aforeſaid in the County aforeſaid, in Conſideration thereof undertook, and to the ſaid *L.* then and there faithfully promiſed, that he the ſaid *P.* the ſaid Fourteen Pounds to the ſaid *L.* when he ſhould be thereunto required, would well and truly pay and content; *Yet* the ſaid *P.* in no wiſe regarding his ſaid ſeveral Promiſes and Undertakings made in Form aforeſaid, but contriving and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid *L.* in this reſpect, hath not paid to the ſaid *L.* the ſaid ſeveral Sums of Money or any Part thereof (altho' the ſaid *P.* afterwards, *to wit*, on the Thirtieth Day of *December* in the ſame Year, at the Pariſh aforeſaid in the County aforeſaid, was requeſted by the ſaid *L.* ſo to do) but has hitherto refuſed, and ſtill does refuſe to pay the ſame to the ſaid *L.* to the Damage of the ſaid *L.* of Thirty Pounds; And thereupon he brings Suit, *&c.* *Breach.*

Pledges of Proſecuting { *John Doe*, *Richard Roe*,

If an Attorney be Defendant, a Bill muſt be prepared in the following Form, according to the Nature of the Action.

R. Borret.

Borret.

Of Eaſter *Term in the Eighth Year of the Reign of King* George *the Second.*

To the Juſtices of our Lord the King of the Bench.

Bill againſt an Attorney at the Suit of an Adminiſtrator.

Middleſex, *to wit*, R. R. Gentleman, adminiſtrator of all and ſingular the Goods and Chattels, and Credits of *R. F.* Clerk deceaſed, at the Time of his Death, who died Inteſtate, by *J. C.* his Attorney complains of *T. J.* Gentleman, one of the Attornies of the Court of our now Lord the King of the Bench here preſent here in Court in his proper Perſon, for that, whereas the ſaid *T.* in the Life-time of the ſaid *R. F. to wit*, on the Ninth Day of *April* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-four at *Weſtminſter* in the County of *Middleſex* aforeſaid, was indebted to the ſaid *R. F.* in his Life-time in two Hundred and fifty Pounds of lawful Money of *Great Britain*, for ſo much Money by the ſaid *T.* to the Uſe of the ſaid *R. F.* before that Time had and received; and being ſo indebted the ſaid *T.* afterwards, *to wit*, on the ſame Day and Year at *Weſtminſter* aforeſaid in the County aforeſaid, in Conſideration thereof undertook, and then and there faithfully promiſed the ſaid *R. F.* in his Life, to pay him the ſaid Sum

Indeb. Aſſump. *for Money had and received in Life-time of Inteſtate.*

Sum of Money when he ſhould be requeſted to pay the ſame; *Yet* the aforeſaid *T.* not at all regarding his Promiſe and Undertaking aforeſaid, but contriving and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid *R. F.* in his Life-time, and the ſaid *R. R.* ſince the Death of the ſaid *R. F.* hath not yet paid the aforeſaid Sum of Money, or any Part thereof, to the ſaid *R. F.* in his Life-time, or to the ſaid *R. R.* ſince the Death of the ſaid *R. F.* (to which ſaid *R. R.* ſince the Death of the ſaid *R. F.* *to wit*, on the Sixteenth Day of *June* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-five, at *Weſtminſter* aforeſaid in the County aforeſaid, Adminiſtration of all and ſingular the Goods, Chattels and Credits which were the Goods, Chattels and Credits of the ſaid *R. F.* at the Time of his Death, by *William*, by Divine Proivdence Archbiſhop of *Canterbury*, Primate of all *England* and Metropolitan, was committed) altho' the aforeſaid *T.* in the Life-time of the ſaid *R. F.* by him the ſaid *R. F.* and after the Death of him the ſaid *R. F.* by the aforeſaid *R. R.* *to wit*, on the Seventeenth Day of *June* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-five aforeſaid, at *Weſtminſter* aforeſaid in the County aforeſaid, was required ſo to do; but he hath abſolutely refuſed to pay the ſame to the ſaid *R. F.* and ſince the Death of the ſaid *R. F.* hath, and ſtill doth refuſe

Breach.

Adminiſtration committed.

to pay the ſame to the ſaid *R. R.* to the Damage of the ſaid *R. R.* of three Hundred Pounds; And thereupon he prays Relief, *&c.* And the ſaid *R. R.* brings here into Court the Letters of Adminiſtration aforeſaid, to him as aforeſaid granted, which teſtify the Granting of the Adminiſtration aforeſaid to the ſaid *R. R.* in Form aforeſaid, bearing Date the Day and Year in that Reſpect above mentioned, and ſo forth.

Profert.

Pledges of Proſecuting, *to wit*, { *John Doe*, and *Rich. Roe.*

Cooke.

Hilary *Term in the Fourteenth Year of the Reign of King* George *the Second.*

To the Juſtices of our Lord the King of the Bench.

Bill againſt an Attorney on a Promiſe to deliver back a Gold Watch, or pay 14 Guineas for it, by a certain Day.

Middleſex, *to wit*, *J. T.* by *E. B.* his Attorney complains of *J. H.* Gentleman, one of the Attornies of the Court of our now Lord the King of the Bench here preſent here in Court in his proper Perſon, for that on the Twelfth Day of *November* in the Year of our Lord 1739. at the Pariſh of Saint *Clement Danes* in the County of *Middleſex*, in Conſideration that the ſaid *J. T.* at the Requeſt of the ſaid *J. H.* then and there delivered to the ſaid *J. H.*

J. H. a Gold Watch of the ſaid *J. T.* and the ſaid *J. H.* then and there received the ſame Gold Watch of the ſaid *J. T.* he the ſaid *J. H.* undertook, and then and there faithfully promiſed the ſaid *J. T.* to deliver back the ſaid Gold Watch to the ſaid *J. T.* or to pay the Sum of Fourteen Pounds and fourteen Shillings to the ſaid *J. T.* for the ſaid Gold Watch, on or before the firſt Day of *December* then next enſuing; *Yet* the ſaid *J. H.* not regarding his ſaid Promiſe and Undertaking, but deviſing, and fraudulently intending to deceive and defraud the ſaid *J. T.* in this behalf, hath not yet delivered back the ſaid Watch to the ſaid *J. T.* nor paid him the ſaid Fourteen Pounds and Fourteen Shillings, nor any Part thereof, (although the ſaid *J. H.* afterwards, *to wit*, upon the Firſt Day of *December* in the Year aforeſaid, and often afterwards, in the Pariſh aforeſaid in the County aforeſaid, was requeſted by the ſaid *J. T.* ſo to do) but hath hitherto refuſed, and ſtill doth refuſe ſo to do. *Breach.*

And whereas the ſaid *J. H.* on the Third Day of *June* in the Year of our Lord one Thouſand ſeven Hundred and Forty, at the Pariſh aforeſaid in the County aforeſaid, made his Note in Writing ſubſcribed with his own Hand, commonly called a Promiſſory Note, bearing Date the ſame Day and Year laſt mentioned, by which Note the ſaid *J. H.* promiſed to pay to the ſaid *J. T.* or his Order, the Sum of Three Pounds and Five Shillings *On a Promiſſory Note as Drawer.*

on Demand for Value received; by Reaſon whereof, and alſo by Force of the Statute in ſuch Caſes made and provided, the ſaid *J. H.* became liable to pay to the ſaid *J. T.* the ſaid Three Pounds and five Shillings, according to the Tenor and Effect of the ſaid Note. And being ſo liable the ſaid *J. H.* in Conſideration thereof afterwards, *to wit*, on the Day and Year laſt mentioned, at the Pariſh aforeſaid in the County aforeſaid, undertook, and then and there faithfully promiſed the ſaid *J. T.* to pay him the ſaid Three Pounds and five Shillings, according to the Tenor and Effect of the ſaid Note. *And alſo whereas* the ſaid *J. H.* afterwards, *to wit*, on the Tenth Day of *January* in the Year of our Lord one Thouſand ſeven Hundred and Forty, at the Pariſh aforeſaid in the County aforeſaid, was indebted to the ſaid *J. T.* in the Sum of Twenty Pounds of lawful Money of *Great Britain*, for diverſe Goods, Wares and Merchandizes before that Time ſold and delivered by the ſaid *J. T.* to the ſaid *J. H.* at his Requeſt; and being ſo indebted the ſaid *J. H.* in Conſideration thereof afterwards, *to wit*, on the Day and Year laſt above mentioned, at the Pariſh aforeſaid in the County aforeſaid, undertook, and then and there faithfully promiſed the ſaid *J. T.* to pay him the ſaid Twenty Pounds when he the ſaid *J. H.* ſhould be thereunto requeſted. *And alſo whereas* afterwards, *to wit*, on the Day and Year laſt above mentioned,

Indeb. Aſſ. *for Goods ſold and delivered.*

Quant. Val. *thereon.*

ed,

ed, at the Pariſh aforeſaid in the County aforeſaid, in Conſideration that the ſaid *J. T.* had before that Time ſold and delivered diverſe other Goods, Wares and Merchandizes to the ſaid *J. H.* at his Requeſt, he the ſaid *J. H.* undertook, and then and there promiſed the ſaid *J. T.* to pay him ſo much Money for the ſaid Goods, Wares and Merchandizes laſt above mentioned, as the ſame at the Time of the Sale and Delivery thereof were reaſonably worth when he the ſaid *J. H.* ſhould be thereunto requeſted. And the ſaid *J. T.* in Fact ſaith, that the ſaid Goods, Wares and Merchandizes laſt above mentioned, were at the Time of the Sale and Delivery thereof reaſonably worth other Twenty Pounds of like lawful Money, *to wit*, at the Pariſh aforeſaid in the County aforeſaid, whereof the ſaid *J. H.* then and there had Notice: *Nevertheleſs* the ſaid *J. H.* not regarding his ſaid Three ſeveral Promiſes and Undertakings laſt above mentioned, but deviſing and fraudulently intending to deceive and defraud the ſaid *J. T.* in this Behalf, hath not yet paid the ſaid ſeveral Sums of Money, in the ſaid Three laſt Promiſes and Undertakings mentioned, nor any Part thereof, to the ſaid *J. T.* (although the ſaid *J. H.* afterwards, *to wit*, upon the ſame Day and Year, and often afterwards, at the Pariſh aforeſaid in the County aforeſaid, was requeſted by the ſaid *J. T.* ſo to do) but *Breach.*

hath hitherto refuſed, and ſtill doth refuſe to pay him the ſame, to the Damage of the ſaid *J. T.* of Forty Pounds; And thereupon he prays Relief, *&c.*

Pledges of Proſecuting { *John Doe*, *Richard Roe.*

No Bill to be filed till entered on Record.

No Bill ſhall be filed againſt an Officer, Attorney, Clerk or Miniſter of the Court, to be called in Court, in order to a Forejudger, until the Bill be actually entered on Record, and a Number Roll actually put to the Bill. *Trin.* 21 *Car.* 2.

Of filing a Bill againſt an Attorney, and calling him in Court.

This Rule is in a great Meaſure diſuſed. You ingroſs the Bill on a Piece of Parchment ſtamped with a double Penny Stamp, which the Prothonotary marks on being paid for the Entry, and it is thereby ſuppoſed to be entered, tho' no Number Roll is put on the Bill; then you carry the Bill to *Weſtminſter*, and give it to one of the Criers, who calls the Defendant in Court, for which you pay him 1 *s.* After which you give a Rule on the Bill with the Secondary, for the Defendant to appear, for which you pay 1 *s.* 4 *d. viz.* 1 *s.* for the King's Duty, and 4 *d.* for the Rule; and then you file the Bill in the Prothonotary's Office, for which you pay 4 *d.* And heretofore it was not neceſſary to give the Defendant any other Notice of filing ſuch Bill againſt him than the Calling him in Court

Court as aforesaid by the Crier, which, as all Attornies of the Court were supposed to be personally present in Court during the Sitting thereof, was then thought to be sufficient Notice. But many Attornies having been struck off the Roll on Forejudgers for want of other Notice; and many living in such remote Parts of the Kingdom, that it was impossible for them to have Notice Time enough to give Orders for their Appearance before the Rule (which was a four Day Rule) was expired, this Practice is altered, and now,

No Forejudger till Notice in writing.

Where a Bill shall be filed against an Attorney of the Court, no Forejudger shall be entered for Want of Appearance, if the Action be laid in *London* or *Middlesex*, and the Attorney resides within Twenty Miles of *London*, until four Days after Notice in Writing of filing such Bill be given to such Attorney or his Agent, or left at his usual Place of Abode, and a Rule given for such Appearance as usual; and if such Attorney resides above Twenty Miles from *London*, or the Action be in any other County than *London* or *Middlesex*, no Forejudger shall be entered till eight Days after such Notice shall be given in Manner as aforesaid, and a Rule to appear; the said Days to be exclusive of the Days of giving such Notice. *Hil.* 11 *Geo.* 2.

Common

Common Pleas.

J. T.
againſt
J. H. Gent. one of the Attornies, *&c.*

Notice of a Bill being filed. Take Notice, that a Bill was this Day filed in the Office of *George Cooke*, Eſq; chief Prothonotary of his Majeſty's Court of *Common Pleas* at *Weſtminſter*, againſt you the Defendant *J. H.* at the Suit of the Plaintiff *J. F.* in an Action of Treſpaſs upon the Caſe on ſeveral Promiſes; and unleſs you appear to the ſaid Bill on *Monday* the * 26th Day of *January* inſtant, you will be forejudged the Court.

E. B.
Attorney for the Plt.

23 *Jan.* 1740.
To *J. H.* Deft.

* *N.* This is the Day given by the Secondary's Rule which is incluſive, *ſed vide Regul. Hil.* 11 *Geo.* 2. *fol.* 249. which ſays the Days are to be excluſive.

Of Forejudging an Attorney. If the Defendant appears, he enters his Appearance with the Prothonotary in whoſe Office the Bill was filed, and which is uſually the Office in which the Defendant practices, if it be known. If the Defendant does not appear, you enter the Bill and a Forejudger on the Roll, in the following Form, beginning with a Memorandum, as in the *King's Bench.*

Middle-

Middleſex, *to wit*, Be it remembered, that on the Day of in this ſame Term *G. H.* came here into Court by *L. R.* his Attorney, and exhibited to the Juſtices of our now Lord the King of the Bench here his Bill againſt *J. B.* Gentleman, one of the Attornies of the Court of our ſaid now Lord the King of the Bench here preſent here in Court in his proper Perſon, in a Plea of Treſpaſs on the Caſe, the Tenor of which ſaid Bill follows in theſe Words; *to wit*, To the Juſtices of our Lord the King of the Bench. *Middleſex*, to wit, *G. H.* by *L. R.* his Attorney complains of *J. B.* Gentleman, *&c.* (*the whole Bill to*) And thereupon he prays Relief, *&c.* Pledges to Proſecute *John Doe* and *Richard Roe*; Whereupon the ſaid *J. B.* being ſolemnly called came not, therefore he ſtands forejudged from exerciſing his Office of Attorney of this Court for his Contumacy, *&c.*. *Memorandum.* *Forejudger.*

You pay the Prothonotary 2 *s.* for ſigning the Forejudger, and the Clerk of the Warrants 1 *s.* 4 *d.* for ſtriking the Defendant off the Roll, and then you may proceed againſt him as againſt a common Perſon.

But if the Defendant enters his Appearance in Time with the Prothonotary, you deliver him a Declaration and proceed, as in other Caſes; but the Declaration and Iſſue

Iſſue begin with a Memorandum in the Form aforeſaid, and in both Caſes you add the Pledges to proſecute at the End of the Declaration. You muſt alſo make all your Writs, as *Venire facias*, &c. returnable on a Day certain, *prox. poſt* the general Return Day.

A Writ of Privilege for an Attorney ſued in the Palace Court.

GEORGE the Second, *&c.* To our Judges of our Court of our Palace at *Weſtminſter*, and every of them, Greeting. Whereas according to the Cuſtom of our Court of the Bench at *Weſtminſter* hitherto uſed and approved in the ſame, the Attornies of our ſaid Court of the Bench ought not, nor have they for Time paſt been uſed to be compelled to anſwer before any of our Juſtices or Officers, or any other ſecular Judges whatſoever, except before our Juſtices of our ſaid Court of the Bench, upon any Pleas, Plaints or Demands which do not particularly belong to us (Pleas of Freeholds, Felonies and Appeals excepted.) And we have lately received Information of the great Complaint of *A. B.* one of the Attornies of our ſaid Court of the Bench, that ſeveral ill-diſpoſed Perſons intending to diſquiet the ſaid *A.* have impleaded him by diverſe Plaints levied in our Court before you, which do not relate to us, whereby he is unable to attend his ſaid Office as an Attorney upon ſeveral Affairs and Suits depending in our ſaid Court of the Bench, which

which if it be permitted will manifeſtly take away, and be not only in Derogation and Diminution of the Juriſdiction of our ſaid Court of the Bench, and the Liberties and Privileges thereof, but alſo be to the great Detriment of the ſaid *A.* and his Clients; And becauſe we are willing that the Juriſdiction, Privileges and Cuſtoms for ſo long Time uſed and approved in our ſaid Court of the Bench, ſhould be inviolably obſerved, We command you and every of you, that you and every of you deſiſt from proceeding in all and ſingular the Plaints and Pleas whatſoever depending in our ſaid Court before you, or any of you, againſt the ſaid *A.* by whatſoever Name he ſhall be therein reputed (Pleas of Freeholds, Felonies and Appeals only excepted.) And that you inform the ſaid Parties Plaintiffs in the ſaid Plaints, that they may proſecute their ſaid Plaints before our Juſtices of the ſaid Court of the Bench, if they ſhall think it expedient ſo to do. Witneſs, *&c.*

Another, where an Attorney was arreſted by Capias ad reſpondendum.

GEORGE the Second, *&c.* To the Sheriffs of *London*, Greeting. Whereas according to the Cuſtom of our Court of the Bench at *Weſtminſter* hitherto uſed and approved of in the ſame, the Attornies of our ſaid Court of the Bench, whilſt they are proſecuting and defending Suits and Actions therein for their Clients, ought not, nor have they for Time immemorial

been uſed to be compelled to anſwer before us, or any of our Juſtices or Officers, or any other ſecular Judges whatſoever, upon any other Pleas, Plaints or Demands which do not particularly belong to us (Pleas of Freeholds, Felonies and Appeals excepted) ſave only before our Juſtices of our ſaid Court of the Bench, by Bill exhibited in our ſaid Court, and not by Original Writ. And we have lately received Information by the Complaint of *A. B.* one of the Attornies of our ſaid Court of the Bench, proſecuting, following and defending Suits and Actions in our ſaid Court for his Clients, that ſeveral ill-diſpoſed Perſons, intending to diſquiet the ſaid *A. B.* have ſued and proſecuted him by Original Writ or Writs iſſued out of our High Court of *Chancery*, returnable before our ſaid Juſtices of the Bench, and by Writ or Writs of *Capias ad reſpondendum* iſſued forth thereupon, and have cauſed him the ſaid *A. B.* to be arreſted and detained in your Cuſtody, by Virtue of one or more of the ſaid Writs of *Capias ad reſpondendum*, in Suits which do not relate to us, or in Pleas of Freeholds, Felonies or Appeals, whereby the ſaid *A. B.* is unable to attend his ſaid Office as an Attorney, upon the ſaid ſeveral Suits and Actions depending in our ſaid Court of the Bench, which if it is permitted, will manifeſtly take away and be in Derogation and Diminution of the Liberties and Privileges of the ſaid *A. B.* and to the great Detri-

Detriment of the ſaid *A. B.* and his Clients; And becauſe we are willing that the Juriſdiction, Privileges and Cuſtoms for ſo long Time uſed and approved of in our ſaid Court of the Bench, ſhould be inviolably obſerved, We command you, that you deſiſt from taking the ſaid *A. B.* into your Cuſtody upon any of the ſaid Writs of *Capias ad reſpondendum*; and if the ſaid *A. B.* be detained in your Cuſtody by any ſuch Writ or Writs of *Capias ad reſpondendum*, and for no other Cauſe, that then you ſuperſede and ſuffer him to go at large, as you will anſwer the contrary at your Peril; And that you inform the Party or Parties, Plaintiff or Plaintiffs in the ſaid Suit or Suits, that he, ſhe or they may proſecute his, her or their ſaid Suits, before our Juſtices of our ſaid Court of the Bench, by Bill or Bills to be exhibited to the ſaid Juſtices againſt the ſaid *A. B.* if he, ſhe or they think it expedient ſo to do. Witneſs, *&c.*

An Attachment againſt an Attorney or any other, for a Contempt, is in this Form:

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *Middleſex*, Greeting. Attach *L. J.* Gentleman, one of the Attornies of our Court of the Bench (*or* A. B. *An Attachment for a Contempt.*

any other Perſon) ſo that you may have his Body before our Juſtices at *Weſtminſter* on next after to anſwer us of and upon ſuch Things as on our Behalf ſhall be then and there objected againſt him; And have there this Writ. Witneſs, &c.

Of Writs of Habeas Corpus cum Cauſa.

Writs of Habeas Corpus cum Cauſa.

THEY are uſed for two Purpoſes; *Firſt*, To remove Cauſes from inferior Courts into this Court, to be here determined. *Secondly*, To remove the Body of a Defendant out of any other Priſon into the Priſon of the *Fleet*.

As to the Firſt, many Abuſes having been committed in the obtaining and proſecuting ſuch Writs, ſeveral Laws have been made for the Remedying the ſame.

Before the Statute of 43 *Eliz. c.* 5. it was uſual for a Defendant in an Action commenced in an inferior Court, to ſuffer ſuch Cauſe to be proceeded in till Iſſue joined, the Jury ſworn, and Evidence given for the Plaintiff, before he would deliver into Court his Writ of *Habeas Corpus cum Cauſa*, or other Writ which he had before ſued out for removing the ſaid Cauſe into this or ſome other of the Courts at *Weſtminſter*; and this done merely to put the Plaintiff to as much Expence as poſſible, and to come at a Knowledge

ledge of his Evidence. But by that Statute it is enacted, That no Writ of *Habeas Corpus*, or other Writ for the Removing a Cauſe out of any inferior Court, ſhall be received or allowed by the Judge or Officer to whom the ſame ſhall be delivered (but that he may proceed in ſuch Cauſe as if no ſuch Writ had been delivered to him) except the Writ be delivered before the Jury, which is to try the Iſſue, have appeared, and one of them be ſworn to try the Cauſe.

Cauſe not to be removed by Habeas Corpus, *unleſs delivered before the Jury ſworn.*

And by the Statute 21 *James* 1. *c.* 23. no Writ of *Habeas Corpus*, *Certiorari*, or other Writ to remove any Action commenced within any City, Liberty, *&c.* ſhall be allowed by the Steward, Judge, *&c.* of ſuch Court, unleſs delivered before Iſſue or Demurrer joined in ſuch Cauſe, ſo as the ſaid Iſſue or Demurrer be not joined within ſix Weeks after the Arreſt or Appearance of the Defendant to ſuch Action or Suit.

Nor unleſs delivered before Iſſue joined.

And if any Action commenced in ſuch Court of Record in any City, Liberty, *&c.* ſhall be removed by any Writ or Proceſs, and afterwards be remanded back by Writ of *Procedendo*, or other Writ, then the ſaid Action ſhall never afterwards be removed or ſtay'd before Judgment, by any Writ out of any Court whatſoever.

If carried back by Procedendo *not to be removed again before Judgment.*

And if in any Action or Cauſe not concerning Freehold Inheritance, Title of Lands, Leaſe or Rent commenced in any ſuch Court of Record, it ſhall appear or

Cauſe not concerning Freehold, and not exceeding 5 l. *not to be removed.*

be laid in the Declaration, that the Debt, Damages or Thing demanded doth not exceed 5 *l.* then ſuch Action ſhall not be ſtay'd by any Writ whatſoever, other than Writ of Error or Attaint.

To what Courts this extends.

But this Act is only to extend to ſuch Courts of Record in Cities, Liberties, *&c.* and for ſo long Time only as there ſhall be an Utter Barriſter of three Years ſtanding Steward, *&c.* or Judge, or Recorder of ſuch inferior Court, or Aſſiſtant to ſuch Judge of the ſame inferior Court as ſhall not be an Utter Barriſter of that ſtanding, and not of Counſel in any Action in ſuch inferior Court.

The Subtilty of ill-deſigning People in Time got over, and rendered ineffectual this Act. A vexatious Defendant ſued in an inferior Court for a Debt under 5 *l.* perhaps not 20 *s.* would ſet up a fictitious Action againſt himſelf for a pretended Demand of above 5 *l.* and then bring a *Habeas Corpus cum Cauſa*, which would take in both Actions, and by this Contrivance procure the ſmalleſt Action to be removed into a ſuperior Court, whereby a Plaintiff, that could not bear the Expence of ſuch ſuperior Court, has been neceſſitated to ſubmit to the Loſs of his juſt Demands.

Inferior Courts may proceed in Actions not exceeding 5 l. *tho' there be other Actions for above* 5 l.

But by an Act made 12 *Geo.* 1. the Judges of ſuch inferior Courts, as are deſcribed in the Statute 21 *J.* 1. may proceed in ſuch Actions, *&c.* as are therein ſpecified, which appear or are laid not to exceed

exceed 5*l.* although there may be other Actions againſt ſuch Defendants wherein the Plaintiffs Demands ſhall exceed 5*l.*

Habeas Cor. *directed to any Sheriff (except of* Lond. *or* Midd.) *to be returnable on a Day certain in Term.*

A Writ of *Habeas Corpus cum Cauſa ad faciendum & recipiendum*, directed to any Sheriff (other than of *London* or *Middleſex*) muſt be returnable in Court at a Day certain in Term, and not be made returnable immediately or in the Vacation. *Mich.* 1654.

If to the Sher. of Lond. *or* Midd. *may be returnable immediately.*

But ſuch Writ of *Habeas Corpus* directed to the Sheriffs of *London*, or to the Sheriff of *Middleſex*, may be granted in Term or Vacation returnable immediately. *Same Rule.* *Vide poſtea*, *fol.* 262.

And the Sheriff muſt return ſuch Writ the ſame Day.

Where a Writ of *Habeas Corpus* made returnable immediately is directed to any Sheriff, he ought to make his Return the ſame Day that the Writ is delivered, and to bring the Body immediately, as required by the Writ. *Same Rule.*

If Priſoner charged with Proceſs out of this Court, may be committed, tho' charged with Proceſs out of K.B. *or* Exch.

If upon the Return of the *Habeas Corpus* the Priſoner is returned charged with a Proceſs out of the *King's Bench* or *Exchequer*, and with Proceſs out of the *Common Pleas*, he may be committed with thoſe Cauſes. *Same Rule.*

If charged with Proceſs out of this Court, returnable at a Day to come, may be committed.

And if the Priſoner upon a *Habeas Corpus cum Cauſa* be returned charged with Proceſs out of the *Common Pleas*, tho' it be returnable at a future Day, he may be committed with this Cauſe. *Same Rule.*

Return of a H. C. *muſt be at a Day certain.*

All Writs of *Habeas Corpus* returnable in Court, muſt be made returnable at a Day certain. *Mich.* 1654. *Hil.* 13, 14 *Car.* 2.

Of removing a Priſoner into the Fleet.

If a Priſoner in Cuſtody of any Sheriff or Gaoler, charged with Proceſs iſſuing out of the *King's Bench* or *Exchequer*, and not with any Proceſs out of this Court, be minded to be turned over to the Priſon of the *Fleet*, he muſt procure himſelf to be charged with ſome Proceſs iſſuing out of the Court of *Common Pleas* before he brings his Writ of *Habeas Corpus*, that he may be returned charged therewith, otherwiſe he can't be turned over.

The Form of the Writ Habeas Corpus cum Cauſa.

A H. C. *to the Sheriff of* Midd. *ret. immediately before a Judge.*

GEORGE the Second, *&c.* To the Sheriff of *Middleſex*, Greeting. We command you, that you have the Body of *T. M.* detained in our Priſon under your Cuſtody, as it is ſaid, by whatſoever Name he is called in the ſame, together with the Day and Cauſe of the Taking and Detaining the ſaid *T.* before Sir *John Willes*, Knight, our Chief Juſtice, [or before Sir *John Forteſcue Aland*, Knight, one of our Juſtices] of the Bench, at his Chambers in *Serjeants Inn* in *Chancery Lane*, immediately after the Receipt of this our Writ, to do and receive what our ſaid Chief Juſtice [or Juſtice] ſhall then and there

there conſider of him in this behalf; And have there this Writ. Witneſs, *&c.*

The Expences of this Writ, Allowance, &c. *are,*

	l.	*s.*	*d.*
Stamp Duty —— ——	0	5	0
Judge ſigning —— ——	0	4	0
Prothonotary ſigning ——	0	1	4
Seal —— ——	0	0	7
To the Sheriff of *Middleſex* for the Allowance ——	0	4	8
For the Return thereof, if but one Writ —— ——	0	2	4
For every Writ more againſt the Defendant —— ——	0	2	4
For a Warrant to the Bailiff to conduct the Priſoner before a Judge, or into Court ——	0	2	4
And if the Defendant is in Priſon, then for a Warrant to the Gaoler to deliver him to the Bailiff	0	2	4
To the Bailiff for bringing him up	0	10	0

Beſides the Fees at the Judge's Chambers, or in Court.

A Habeas Corpus to the Palace Court.

GEORGE the Second, *&c.* To the Judges of our Court of our Palace at *Weſtminſter*, and to every of them, Greeting. We command you, that you have the Body of *J. C.* detained in our Priſon under your Cuſtody, as it is ſaid, by whatſoever Name he may be called in the ſame, together with the Day and Cauſe of the Taking and Detaining the ſaid *J. C.* before Sir *John Willes*, Knight, our Chief Juſtice

of the Bench, at his Chambers ſituate in *Serjeants Inn* in *Chancery Lane*, immediately after the Receipt of this Writ, to do and receive what our ſaid Chief Juſtice ſhall then and there conſider of him in this Behalf; And have there this Writ. Witneſs, &c.

	l.	*s.*	*d.*
The Allowance at the Marſhal's Court for the firſt Cauſe, is—	0	4	8
For every Cauſe after the firſt—	0	1	0
[If bailed] the Stamp Duty —	0	2	0
Judge's Clerk taking the Bail —	0	7	6

Hab. Cor. *to an inferior Court within 5 Miles of* London *may be ret. immediately.*

Writs of *Habeas Corpus* directed to the inferior Courts of *London*, *Weſtminſter* and *Southwark*, and other Courts within five Miles of *London*, may be returnable immediately. *Mich.* 1654. and *Hil.* 13 & 14 *Car.* 2. *Vide antea, fol.* 259.

Bail taken in Abſence of Plt. or his Attorney, to be de bene eſſe; *and if no Exception within* 20 *Days, to be filed.*

If Bail be taken in the Abſence of the Plaintiff or his Attorney, the ſame is to be taken *de bene eſſe*; and if on Notice in Writing given to the Plaintiff, or his Attorney, of the Names and Additions of the Bail, the Time when, and before whom put in, no Exception be taken within Twenty Days, then the Bail is to be delivered over to be filed. *Same Rules.*

If no Exception, and Bail not filed within 4 *Days after the* 20, *a* Procedendo.

And if no Exception be taken to Bail put in on a *Habeas Corpus* before a Judge at his Chamber, then unleſs the Bail be filed within four Days after the Expiration of the twenty Days, a *Procedendo* may be granted

granted, upon a Certificate that the Bail is not filed. *Same Rules.*

Bail taken of Prisoners to be delivered to Prothonotary to be filed.

Where Bail is taken of a Person in Custody, the Judge's Clerk is to deliver the Bail to the Prothonotary, to be filed if assented to; and for that Purpose the Prothonotary's Fees are to be deposited; but the Prisoner is not to be discharged until the Bail be assented unto, or the Plaintiff overruled in open Court to accept the same upon Examination. *Same Rules.*

But Prisoner not to be discharged 'till Bail be assented to, &c.

Bail in all Cases of Removal where Bail below, except.

In all Cases where Bail was put in in the inferior Court, if the Cause be removed by *Habeas Corpus* into this Court, Bail must be put in here on the Removal, tho' the Debt be under 10 *l.* except the Defendant be an Heir, Executor or Administrator, *&c.*

Rule for Procedendo *unless Bail in 4 Days in Term, and in 6 Days in Vacation.*

When the *Habeas Corpus* is allowed in the inferior Court, and returnable before a Judge at his Chambers, the Plaintiff's Attorney must get an Order from one of the Judge's Clerks for a *Procedendo*, unless the Defendant put in Bail by the Time limited by the Order, *viz.* in Term-Time within four Days, and in Vacation within six Days after Notice of the Rule, a Copy of which must be served on the Defendant's Attorney.

Rule for better Bail.

If the Plaintiff's Attorney dislike the Bail, he serves the Defendant's Attorney with a like Order for a *Procedendo*, unless better Bail be put in within four Days.

Of Justifying.

If this Exception to the Bail be in Vacation Time, 'tis usual (though I don't see to what Purpose) to justify within the

four Days before a Judge at his Chambers, for which you pay 2*s.* and then the Bail muſt juſtify the firſt Day of the next Term in Court.

The Defendant's Attorney muſt give the like Notice to the Plaintiff's Attorney of the putting in Bail, and juſtifying, as in other Caſes.

Cauſes removed from Cities and Towns where the Judges ſeldom go, to be laid in the County wherein, &c.

If a Cauſe be removed by *Habeas Corpus* out of the Courts of *Canterbury*, *Southampton*, *Hull*, *Litchfield* or *Pool*, or other Counties where the Judges of *Niſi Prius* ſeldom go, if the Action be tranſitory, it muſt be laid in the County of *Kent*, *Southampton*, *York*, *Stafford* or *Dorſet*, or other County where ſuch City or Town lies, and the Recognizance is to be taken accordingly. *Mich.* 1654.

A Habeas Corpus ad Satisfaciendum *to the Warden of the* Fleet *to bring a Priſoner up to be charged in Execution.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Warden of our Priſon of the *Fleet*, Greeting. We command you, that you have before our Juſtices at *Weſtminſter*, on *Wedneſday* next after three Weeks of the Holy *Trinity*, the Body of *B. C.* late of *London*, Stationer, detained in our Priſon under your Cuſtody, as it is ſaid, by whatſoever Name he is called in the ſame, to ſatisfy *S. T.* of Thirty Pounds for his Damages which he has ſuſtained, as well by occaſion of the not performing certain Promiſes and Undertakings lately made by the ſaid *B.* to the ſaid *S.* as for his Coſts and

and Charges by him about his Suit in that behalf expended, whereof the ſaid *B.* is convicted; and further to do and receive what our ſaid Court ſhall then and there conſider of him in this Behalf; And have there, *&c.* Clift's *Entr.* 371.

You pay,

	l.	*s.*	*d.*
At the *Fleet* —— ——	0	9	4
In Court to the Secondary ——	0	9	0
Criers —— ——	0	2	0
Tipſtaff bringing up the Priſoner	0	10	0
If you draw up the Rule you pay the Secondary more ——	0	2	6
And at the *Fleet* —— ——	0	2	6

A *Habeas Corpus ad Satisfaciendum* may iſſue to the Warden of the *Fleet*, or the Keeper of any inferior Priſon of a Liberty or Franchiſe, returnable in Court at a Day certain, and the Number Roll of the Judgment to be indorſed upon the Writ by the Attorney who ſues it out, and ſuch Writ ſhall be a good Cauſe of Detainer. *Mich.* 1654.

Habeas Corpus ad Satisfaciendum *directed to the Marſhal of the* King's Bench.

GEORGE the Second, *&c.* To the Marſhal of our *Marſhalſea*, before us, Greeting. We command you, that you have before our Juſtices at *Weſtminſter*, on *Friday* next after fifteen Days of Saint *Martin*, the Body of *J. N.* Eſq; in our Priſon, under your Cuſtody detained, as it is ſaid, together with the Day and Cauſe

Cauſe of the Taking and Detaining him, by whatſoever Name he is called in the ſame, to ſatisfy *L. M.* Widow, of one Hundred and Twenty Pounds, which the ſaid *J.* heretofore, *to wit*, on the Seventh Day of *October* in the Year of our Reign before Sir *Robert Eyre*, Knt. late Chief Juſtice of our Court of the Bench, at his Chambers ſituate in *Serjeants Inn* in *Chancery Lane*, *London*, acknowledged to owe to the ſaid *L.* to be levied of his Lands and Chattels, as by the ſaid Recognizance in our Court of the Bench aforeſaid remaining of Record plainly appears. And whereupon it is conſidered in our ſaid Court, that the ſaid *L.* have Execution againſt the ſaid *J.* of the ſaid one Hundred and Twenty Pounds, by the Default of the ſaid *J.* And whereupon our Sheriff of *Middleſex* returned to our Juſtices at *Weſtminſter* from the Day of Saint *Michael* in three Weeks laſt paſt, that the ſaid *J.* has no Goods or Chattels in his Bailiwick, whereof he could cauſe to be made the ſaid one Hundred and Twenty Pounds, or any Part thereof; and further to do and receive what our ſaid Court ſhall then and there conſider of him in this Behalf; And have there this Writ. Witneſs, *&c.*

Sci. Fa'.

Certiorari to the Mayor, &c. of London in Ejectment.

GEORGE the Second, *&c.* To the Mayor, Aldermen and Sheriffs of *London*, and to each of them, Greeting. We willing for certain Cauſes, that our Juſtices at *Weſt-*

Weſtminſter be certified as well of all and all Manner of Suits or Plaints, Bills, Originals or Pleas in our Court before you or any of you, between *R. R.* Plaintiff, and *C. R.* Gentleman, Defendant, of a Plea of Treſpaſs and Ejectment of Farm, as it is ſaid, lately levied, affirmed or begun, or now depending undetermined, as of all Records and Proceedings thereon depending, had or made, command you, and each of you, that the ſaid Suits or Plaints, Bills, Originals or Pleas aforeſaid, as alſo all the Records and Proceedings aforeſaid, with all Things relating thereto, as fully and intirely as the ſame now remain before you, or any of you, by whatſoever Names the Parties are called in the ſame, you diſtinctly and openly have, together with this Writ, before Sir Knight, our Chief Juſtice of the Bench, at his Chamber ſituate in *Serjeants Inn* in *Chancery Lane*, *London*, immediately after the Receipt of this our Writ, that our ſaid Chief Juſtice, the Premiſſes being ſeen, may cauſe therein to be further done what he ſhall ſee ought of right to be done. Witneſs, *&c.*

Procedendo *to the Palace Court on a* Habeas Corpus.

GEORGE the Second, *&c.* To the Judges of our Court of our Palace at *Weſtminſter*, and to each of them, Greeting. Whereas we by our Writ lately commanded you, that you ſhould have before Sir *John Willes*, Knight, our Chief Juſtice of the Bench, at his Chamber ſituate in *Serjeants Inn* in *Chan-*

Chancery Lane, London, immediately after the Receipt of the ſaid Writ, the Body of *R. W.* detained in our Priſon under your Cuſtody, as it is ſaid, together with the Day and Cauſe of the Taking and Detaining him, by whatſoever Name the ſaid *R.* is called, to do and receive what our ſaid Chief Juſtice ſhould conſider of him in that Behalf; yet certain Cauſes in this Behalf ſpecially moving our Juſtices of the Bench aforeſaid at *Weſtminſter*, We command you, and each of you, that in all Suits and Plaints againſt the ſaid *R.* at the Suit of *J. W.* in our Court before you moved or depending, you proceed with Effect according to the Law and Cuſtom of *England* and the Court aforeſaid, notwithſtanding any Writ lately directed to you to the contrary. Witneſs, *&c.*

The like in another Form.

GEORGE the Second, *&c.* To, *&c.* Whereas, *&c.* (*reciting the Writ of* Habeas Corpus): We command you, that in all and ſingular Pleas and Plaints in our Court before you, againſt the ſaid *L.* moved or depending, you proceed with Effect, notwithſtanding our ſaid Writ of *Habeas Corpus* to the contrary lately thereupon directed to you. Witneſs.

On a Writ of Habeas Corpus *returnable in Court.*

GEORGE the Second, *&c.* To, *&c.* Whereas we by our Writ lately commanded you, that you ſhould have before our Juſtices at *Weſtminſter*, on *Wedneſday* next after fifteen Days of Saint *Martin*, the

the Body of *C. H.* detained in our Priſon under your Cuſtody, as it was ſaid, by whatſoever Name he was called, together with the Day and Cauſe of the Taking and Detaining the ſaid *G.* to do and receive what our ſaid Juſtices ſhould conſider of him in this Behalf; yet for certain Cauſes in this Behalf moving our ſaid Juſtices at *Weſtminſter*, We command you, that in all and ſingular Suits and Plaints, *&c. as before.*

As the *Habeas Corpus* removes all Cauſes againſt the Defendant in the inferior Court, the *Procedendo* carries back all the Cauſes that were removed.

Of PRISONERS.

A Man having Cauſe of Action againſt a Priſoner was formerly obliged to bring him into Court by a *Habeas Corpus*, and then declare againſt him; but by the *Stat.* 4 & 5 *W.* & *M.* it is enacted, That if any Perſon be taken or charged in Cuſtody at the Suit of any other Perſon, upon any Writ or Writs iſſuing out of any of the Courts of *Weſtminſter*, and impriſoned for want of Sureties for his Appearance, the Plaintiff in ſuch Writ may, before the End of the next Term after ſuch Writ ſhall be returnable, declare againſt ſuch Priſoner in the Court out of which ſuch Writ or Writs ſhall iſſue, whereupon ſuch Priſoner

Where Deft. is in Cuſtody for want of Bail.

Plt. before End of next Term after Return of the Writ may declare againſt ſuch Priſoner.

shall be taken or charged in Custody, and may cause a true Copy of the Declaration to be delivered unto such Prisoner, or to the Gaoler or Keeper of the Prison in whose Custody such Prisoner shall be, to which Declaration the said Prisoner shall appear and plead; but if he shall not appear thereto, the Plaintiff shall in such Case have Judgment, as if the Prisoner had appeared and refused to plead.

And have Judgment in Default of Appearance and Plea.

Declaration not to be delivered to Prisoner till after the Return of the Writ.

No Copy of a Declaration shall be delivered to any Prisoner until after the Process upon which such Prisoner shall be taken or charged in Custody be returnable. *Pas. 5 W. & M.*

Prisoner in Custody for a Contempt not to be charged with a Declaration or Execution, without Leave.

A Prisoner in Custody on an Attachment for a Contempt of the Court cannot be charged with a Declaration without Leave of the Court; and the Charging a Defendant with a *Capias ad Satisfaciendum*, whilst he was in Custody of the Sheriff of *Middlesex* on an Attachment for a Contempt of this Court, has been held irregular.

No Rule to plead till Affidavit of the Delivery of the Declaration.

No Rule shall be given for the Defendant in Custody to appear and plead to any Declaration against him, until an Affidavit be filed with the proper Secondary of the Delivery of the Copy of such Declaration, and of the Time when, and the Person to whom the said Copy was delivered, and a Copy of the said Affidavit shall be produced to the Prothonotary before Judgment signed, together with a Certificate from the proper Officer, that no

no Appearance is entered with him. *Paſ. 5 W. & M.*

If a Copy of a Declaration be delivered before *Menſem Paſchæ*, or *Craſtinum Animarum*, and Affidavit thereof made and filed, and the Defendant doth not enter his Appearance with the proper Officer within ten Days after *Eaſter* or *Michaelmas* Term reſpectively, Judgment may be entered againſt him upon ſuch Certificate, if Rules have been given; but if he does enter his Appearance as aforeſaid within ten Days after ſuch Term, he ſhall imparl until the next Term, unleſs the Action be in *London* or *Middleſex*, and the Defendant be in Priſon within Forty Miles of the Cities of *London* or *Weſtminſter*; and then though the Priſoner doth appear within ten Days after the End of the Term, he ſhall plead two Days before the Eſſoin-Day of the next Term; and in Default thereof, Rules having been given, Judgment may be entered againſt him as aforeſaid. *Same Rule.*

Declaration delivered before Menſ. Paſ. or Craſt. Anim. if Deft. appears within 10 Days after the End of the reſpective Term, he may imparl to the next Term.

Unleſs.

If the Copy of the Declaration be delivered on or after *Menſ. Paſ.* in *Eaſter* Term, or *Craſtinum Animarum* in *Michaelmas* Term, or in *Hilary* Term, or in *Trinity*, and the Plaintiff ſhall thereupon give a Rule to appear and plead, if the Defendant enters his Appearance two Days preceding the Eſſoin-Day of the next Term, he ſhall imparl until the next Term; but if he ſhall not appear within that Time Judgment may be entered againſt him, as aforeſaid. *Same Rule.*

If the Declaration be delivered on or after Menſ. Paſ. *or* Craſt. Anim. *or in* Hil. *or* Trin. *Term, and Deft. appears 2 Days before the Eſſoin-Day of the next Term, he may imparl to the next Term.*

If

If Declaration delivered before Eſſoin-Day of the 2d Term Deft. to plead without Imparlance.

If the Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Eſſoin-Day of the next Term, the Plaintiff in ſuch Declaration may give a Rule to appear and plead; and if the Defendant doth not enter his Appearance and plead by that Time the Rules are out, Judgment may be entered againſt him. *Same Rule.*

If no Declaration before the End of the 2d Term, and Affidavit filed, &c. Deft. to be diſcharged by Superſedeas.

If the Declaration be not entered or left in the Office before the End of the next Term after the Return of the Writ or Proceſs, (by which the Defendant ſhall be taken or charged in Cuſtody) and an Affidavit made and filed in Manner aforeſaid before the End of twenty Days after ſuch Term (*Eaſter* Term excepted, and within ten Days after *Eaſter* Term) the Priſoner ſhall be Diſcharged, upon entering his Appearance with the proper Officer, by Writ of *Superſedeas* made by him, according to the antient Practice of this Court. *Same Rule.*

Gaoler concealing a Declaration liable to an Attachment.

If any Gaoler or Keeper of any Priſon, having received a Copy of a Declaration againſt any Priſoner in his Cuſtody, ſhall ſuppreſs the ſame, or not deliver it forthwith to ſuch Priſoner, an Attachment ſhall be entered againſt him. *Same Rule.*

Of Declaring againſt a Priſoner in the Fleet.

It ſhall be lawful for any Perſon who ſhall have Cauſe of Action againſt any Priſoner of the *Fleet*, after filing or entering a Declaration, to deliver a Copy to ſuch Defendant in any perſonal Action, or to the Turnkey or Porter of the *Fleet* Priſon;

Priſon, and after a Rule given to plead to be out at eight Days at moſt, after Delivery of ſuch Copy of the Declaration, and Affidavit made of ſuch Delivery, to ſign Judgment againſt ſuch Defendant, as if he had been charged at the Bar of the *Common Pleas*. *Stat.* 8 & 9 *W.* 3. *c.* 27. *ſ.* 13. *Eight Days Time to plead.*

Common Pleas.

E. T. against *W. W.* late of, &c. } In a Plea of Treſpaſs on the Caſe.

R. R. of, &c. Gentleman, maketh Oath, That he this Deponent did, on the Twelfth Day of *February* laſt, at the Lodge of the *Fleet* Priſon, deliver a Declaration in this Cauſe to *W. Manning*, one of the Turnkeys of the ſaid Priſon, a true Copy of which Declaration is hereunto annexed. And this Deponent alſo ſaith, That the ſaid *W. Manning* did then acknowledge to this Deponent, that the Defendant *W. W.* was at that Time a Priſoner in the ſaid Priſon of the *Fleet*. *Affidavit of the Delivery of a Declaration againſt a Priſoner.*

Sworn, &c. R. R.

When the Defendant is in the *Fleet*, the Declaration muſt be entered with the Prothonotary before it be delivered to the Defendant, but need not be entered before the Delivery when the Defendant is in any other Priſon. *When Decl. to be entered with Proth. before delivered.*

In an Action of Debt againſt two Obligors on a Joint Bond conditioned for Payment of Money, one of the Defendants was *In an Action on a Joint Bond where one Deft. could not be arreſted, Time to declare denied.*

was arreſted, and continued in Cuſtody for want of Bail, the other Obligor could not be arreſted, and now two Terms being near expired, the Plaintiff moved the Court for Time to declare, in regard the Defendant in Cuſtody would be diſcharged for want of being declared againſt this Term, and the other Defendant could not be out-lawed by that Time. But the Motion was denied. *Fiſher* v. *Tucker & al. Hil.* 2 *G.* 2.

If Plt. proceed not to Judgment in 3 *Terms incluſive after Declaration delivered, Deft. to be diſcharged.*

If any Plaintiff ſhall declare againſt any Defendant in Cuſtody of the Warden of the *Fleet*, or of any Sheriff or other Officer, by Virtue of any Proceſs of this Court, and ſhall not further proceed to Judgment in three Terms after ſuch Declaration delivered, incluſive of the Term in which the Declaration ſhall be delivered, the Defendant having appeared, the Defendant may be diſcharged out of Cuſtody by *Superſedeas*, to be allowed by one of the Juſtices of this Court, if Cauſe ſhall not be ſhewn by the Plaintiff or his Attorney, why ſuch Plaintiff had not proceeded before that Time to Judgment as aforeſaid, upon Notice to be given to either of them by the Defendant's Attorney or Agent, and Oath made of ſuch Notice. *Paſ.* 8 *Geo.* 1.

If Plt. does not charge Deft. in Execution within 2 *Terms incluſive, after Judgment, Deft. may be diſcharged.*

And in Caſe any Plaintiff having obtained Judgment in this Court againſt any Defendant a Priſoner, as aforeſaid, ſhall not charge ſuch Defendant, ſo remaining a Priſoner, in Execution upon the Judgment ſo obtained, within two Terms next after

after ſuch Judgment ſo had and obtained, including the Term in which the ſaid Judgment ſhall be ſigned, ſuch Defendant ſo remaining in Priſon may be diſcharged out of Cuſtody, where he ſhall be ſo detained by *Superſedeas*, to be allowed as aforeſaid, unleſs Cauſe ſhewn on like Notice and Oath. *Same Rule.*

Deft. ſurrendering in Diſcharge of his Bail before Declaration delivered, to be declared againſt within 2 Terms, or diſcharged.

If any Defendant ſhall render himſelf, or be rendered to the *Fleet* Priſon, in Diſcharge of his Bail, at the Suit of any Plaintiff, where no Declaration has been delivered, unleſs the Plaintiff ſhall declare againſt ſuch Defendant within two Terms after ſuch Render, ſuch Defendant may be diſcharged out of Cuſtody, by *Superſedeas* to be allowed by one of the Juſtices of this Court, if Cauſe be not ſhewn to the contrary by the Plaintiff, or his Attorney, upon Notice to either of them given by the Defendant's Attorney or Agent, and Affidavit made of ſuch Notice. *Same Rule.*

If Declaration delivered, or Judgment had before Render, Plt. to proceed to Judgment in 3 Terms after Render, and charge Deft. in Execution within 2 Terms after Judgment, or Deft. to be diſcharged.

But where a Declaration has been delivered, or Judgment had againſt ſuch Defendant ſo rendering himſelf, or being rendered, before ſuch Render, unleſs the Plaintiff ſhall proceed to Judgment upon ſuch Declaration delivered within three Terms after ſuch Render (the Defendant having appeared) and charge ſuch Defendant in Execution within two Terms after ſuch Judgment obtained, the Defendant may be diſcharged in like Manner by *Superſedeas*,

perſedeas, unleſs Cauſe ſhewn upon the like Notice and Affidavit. *Same Rule.*

Copy of Declaration not ſufficient to charge Priſoner in Cuſtody, unleſs Affidavit be made that Cauſe of Action is 10 l. *or upwards.*

No Copy of a Declaration delivered at the *Fleet* Priſon againſt any Priſoner there, ſhall be ſufficient Charge to hold ſuch Priſoner to Bail, or to retain ſuch Priſoner in Cuſtody for want of Bail, unleſs an Affidavit that the Plaintiff's Cauſe of Action amounts to Ten Pounds or upwards be firſt made and filed in the proper Prothonotary's Office, and an Indorſement made by the ſaid Prothonotary or his Deputy upon ſuch Copy of a Declaration, ſignifying the Sum of Money ſpecified in ſuch Affidavit for which Sum ſo indorſed Bail ſhall be required, and no more. *Hil.* 8 *Geo.* 2.

The Plt. at whoſe Suit the Priſoner was arreſted need not make ſuch Affidavit.

If a Defendant arreſted by Proceſs iſſuing out of the Court of *King's Bench*, and in Cuſtody for want of Bail, remove himſelf by *Habeas Corpus* to the *Fleet* Priſon, and the Plaintiff charges him in the *Fleet* with a Copy of a Declaration, he is not obliged to make and annex an Affidavit, as by the above Rule is directed, in regard there was an Affidavit made of the Debt when the Plaintiff took out the Proceſs upon which the Defendant was arreſted; but if the Declaration comes in as a new Charge againſt a Priſoner in Cuſtody, at the Suit of another Plaintiff, there the above Rule muſt be obſerved.

A Priſoner diſcharged for want of Proſecution, if afterwards arreſted on an Action on the Judgment, a common Appearance ſhall be taken.

Where a Priſoner in the *Fleet*, or other Gaol or Priſon, is diſcharged, or ordered

to be discharged by this Court, or any of the Justices thereof by *Superseadeas* for want of Prosecution, and such Prisoner be afterwards arrested or detained in Custody by Action of Debt brought upon the Judgment obtained in the Cause, wherein such Prisoner was so discharged, or ordered to be discharged, a common Appearance shall be accepted for the Defendant, in such Action of Debt upon the Judgment. *Hil.* 8 *Geo.* 2. *Vide antea fol.* 58.

Deft. discharged for want of proceeding to Judgment may be afterwards taken in Execution; aliter *if discharged for want of being charged in Execution.*

Where a Defendant is discharged out of Custody for want of the Plaintiff's proceeding to Judgment, the Plaintiff may afterwards proceed to Judgment and take the Defendant in Execution thereon, and the Defendant shall not be discharged; but if the Plaintiff has proceeded to Judgment, and the Defendant be discharged out of Custody for want of being charged in Execution, the Defendant is totally discharged, and cannot afterwards be taken in Execution on that Judgment.

A Prisoner on Contempt not entitled to a Day Rule.

A Prisoner charged with an Attachment for a Contempt, which is a criminal Prosecution, is not entitled to a Day Rule.

Superseded *on putting in good Bail.*

GEORGE the Second, *&c.* To the Sheriff of *L.* Greeting. Whereas *S. S.* is detained in our Prison under your Custody, by Virtue of our Writ returnable before our Justices at *Westminster*, on, *&c.* [*the Return*] to answer *C. C.* in a Plea of Trespass, and also in a Plea of Trespass on the Case, to the Damage of the said *C.* of

20*l.* And becauſe it ſufficiently appears to our ſaid Juſtices at *Weſtminſter*, that the ſaid *S.* has appeared in our ſaid Court, and found ſufficient Bail to anſwer the ſaid *C.* in the Plea of Treſpaſs on the Caſe aforeſaid; Therefore we command you, that if the ſaid *S.* is detained in our ſaid Priſon under your Cuſtody, by occaſion of the ſaid Action, and no other, then you permit him to go at large, as you will anſwer the contrary at your Peril. Witneſs, *&c.*

The like to the Steward of a Liberty.

GEORGE the Second, *&c.* To chief Steward of the Liberty of *Bury St. Edmunds* in the County of *Suffolk*, Greeting. Whereas by our Writ we commanded our Sheriff of *Suffolk*, that he ſhould take *J. L.* Gentleman, if he might be found in his Bailiwick, and keep him ſafely, ſo that he might have his Body before our Juſtices at *Weſtminſter*, at a certain Day in the ſaid Writ ſpecified, to anſwer *W. L.* Gentleman, in a Plea of Treſpaſs, and alſo in a certain Plea of Treſpaſs on the Caſe upon Promiſe, to the Damage of the ſaid *W.* of three Hundred Pounds; and you, by Virtue of a certain Warrant upon our ſaid Writ by the Sheriff of the County aforeſaid thereupon directed to you, took the ſaid *J.* within the ſaid Liberty, and ſtill detain him in our Priſon under your Cuſtody; *Yet* becauſe the ſaid *J.* after the Taking aforeſaid found ſufficient Bail before our ſaid Juſtices at *Weſt-*

Weſtminſter, to anſwer the ſaid *W.* in the Pleas aforeſaid; Therefore we command you, that if the ſaid *J.* by the Occaſion aforeſaid, and no other, is detained in our Priſon under your Cuſtody, then without Delay you cauſe the ſaid *J.* to be diſcharged out of the ſaid Priſon, and permit him to go at large. Witneſs, *&c.*

Superſedeas *on entring a Common Appearance.*

GEORGE the Second, *&c.* To the Sheriff of *W.* Greeting. Whereas *A. B.* is detained in our Priſon under your Cuſtody, by Virtue of our Writ of *Capias*, iſſued out of our Court before our Juſtices at *Weſtminſter*, returnable before our ſaid Juſtices, on, *&c.* [*the Return*] to anſwer *C. D.* in a Plea of Treſpaſs, and alſo in a certain Plea of Treſpaſs on the Caſe upon Promiſe, to the Damage of the ſaid *C.* 30 *l.* whereby 20 *l.* Bail was directed to be taken: But becauſe it ſufficiently appears to our ſaid Juſtices at *Weſtminſter*, that the ſaid *A.* has appeared by *W. R.* his Attorney to anſwer the ſaid *C.* in the Plea aforeſaid, We command you, that if the ſaid *A.* be detained in our Priſon under your Cuſtody, by Virtue of the ſaid Writ, and for no other Cauſe, that then you ſuffer him to go at large, as you will anſwer the contrary at your Peril. Witneſs, *&c.*

Superſedeas *for want of Proſecution, where the Deft. was taken by the late Sheriff.*

GEORGE the Second, *&c.* To the Sheriff of the City of *Canterbury*, Greeting. Whereas by our Writ we commanded our late Sheriff of the City of *Canterbury*,

bury, That he ſhould take *J. L.* if he ſhould be found in his Bailiwick, and keep him ſafely, ſo that he might have his Body before our Juſtices at *Weſtminſter*, from the Day of St. *Michael* in Three Weeks in the firſt Year of our Reign, to anſwer *J. A.* in a Plea of Treſpaſs, and alſo for Sixteen Pounds of Debt upon Demand; and the ſaid *J. L.* by Virtue of our ſaid Writ was taken, and is now detained in our Priſon under your Cuſtody; *Tet* becauſe the ſaid *J. A.* has in no Manner hitherto proceeded in the ſaid Pleas againſt the ſaid *J. L.* and the ſaid *J. L.* has by *L. R.* his Attorney appeared in our Court before our Juſtices at *Weſtminſter*, and is ready to anſwer the ſaid *J. A.* in the Pleas aforeſaid, We therefore command you, that if the ſaid *J. L.* by the occaſion aforeſaid, and no other, is detained in our Priſon under your Cuſtody, then without Delay you cauſe the ſaid *J. L.* to be diſcharged out of the ſaid Priſon, and permit him to go at large. Witneſs, *&c.*

Superſedeas *for want of Declaring in two Cauſes.*

GEORGE the Second, *&c.* To the Sheriff of *W.* Greeting. Whereas *A. B.* is detained in our Priſon under your Cuſtody, by Virtue of our Writ of *Capias*, returnable before our Juſtices at *Weſtminſter*, on, *&c.* [*the Return*] to anſwer *C. D.* in a Plea of Treſpaſs, and alſo in a certain Plea of Treſpaſs on the Caſe upon Promiſe, to the Damage of the ſaid *C.* 30 *l.* whereupon Bail for 20 *l.* was directed

to

to be taken: And whereas the ſaid *A.* is alſo detained in our ſaid Priſon under your Cuſtody, by Virtue of another Writ of *Capias*, returnable before our ſaid Juſtices at *Weſtminſter*, on, *&c.* [*the Return*] to anſwer *E. F.* in a Plea of Treſpaſs, and alſo in a certain Plea of Treſpaſs on the Caſe upon Promiſe, to the Damage of the ſaid *E.* of 50 *l.* whereupon Bail for 40 *l.* was directed to be taken: But becauſe it ſufficiently appears to our ſaid Juſtices at *Weſtminſter*, that the ſaid *A.* hath appeared in our Court before our ſaid Juſtices by *W. R.* his Attorney, to anſwer as well the ſaid *C.* as the ſaid *E.* in the ſeveral Pleas aforeſaid; And that the ſaid *C.* and *E.* or either of them have or hath not proceeded to declare againſt the ſaid *A.* in due Time after his Commitment, purſuant to the Rules of our Court of *Common Pleas* at *Weſtminſter*; We therefore command you, that if the ſaid *A.* be detained in our Priſon under your Cuſtody for the Cauſes aforeſaid, and no other, that then you immediately diſcharge him from your ſaid Cuſtody, and ſuffer him to go at large, as you will anſwer the contrary at your Peril. Witneſs, *&c.*

Superſedeas *for want of an Affidavit of the Debt and Indorſement on the Back of the Decl. wherewith Deft. was charged in the* Fleet.

GEORGE the Second, *&c.* To the Warden of our Priſon of the *Fleet*, Greeting. Whereas *J. G.* in the Term of the Holy *Trinity* laſt paſt [*if delivered in the Vacation, inſert the Day*] was charged in our ſaid Priſon under your Cuſtody with a

a Copy of a Declaration, at the Suit of *T. B.* in an Action of Debt upon Bond for the Sum of But becauſe it ſufficiently appears to our Juſtices at *Weſtminſter*, that no Affidavit that the ſaid Plaintiff's Cauſe of Action amounted to 10*l.* or upwards, was firſt made and filed in the proper Prothonotary's Office, nor an Indorſement made by the ſaid Prothonotary or his Deputy upon ſuch Copy of the Declaration, ſignifying the Sum of Money which ſhould have been ſpecified in ſuch Affidavit, according to the late Rule made for that Purpoſe; And becauſe the ſaid *J.* hath appeared by his lawful Attorney to anſwer the ſaid *T.* in the Plea aforeſaid, We command you, that if the ſaid *J.* be detained in our ſaid Priſon under your Cuſtody, by Virtue of the ſaid Declaration, and for no other Cauſe, that then you ſuffer him to go at large, as you will anſwer the contrary at your Peril. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the Twenty-third Day of *October* in the Thirteenth Year of our Reign.

Superſedeas *for want of Plt's proceeding to Judgment within 3 Terms after Declaration delivered.*

GEORGE the Second, *&c.* To the Sheriff of *S.* Greeting. Whereas *A. B.* is detained in our Priſon under your Cuſtody, by Virtue of our Writ of *Capias*, returnable before our Juſtices at *Weſtminſter*, on, *&c.* [*the Return*] laſt paſt, to anſwer *C. D.* in a Plea of Treſpaſs; And alſo in a certain Plea of Debt upon Demand for 40*l.* And whereas the ſaid *A.* after-

afterwards, that is to ſay, on the Seventeenth Day of *May* laſt paſt, was charged with a Declaration at the Suit of the ſaid *C.* in the Plea aforeſaid; But becauſe it appears to our Juſtices at *Weſtminſter*, that the ſaid *A.* hath appeared in our Court of *Common Pleas*, to anſwer the ſaid *C.* in the Plea of Debt aforeſaid, and that the ſaid *C.* hath not proceeded to Judgment againſt the ſaid *A.* within three Terms after the Delivery of the ſaid Declaration, as required by the Rules of our ſaid Court, We command you, that if the ſaid *A.* be detained in our Priſon under your Cuſtody, for the Cauſe aforeſaid, and no other, you permit him to go at large, as you will anſwer the contrary at your Peril. Witneſs, *&c.*

Superſedeas *for not charging Deft. in Execution within 2 Terms after Judgment.*

GEORGE the Second, *&c.* To the Warden of our Priſon of the *Fleet*, Greeting. Whereas *M. D.* on the Twenty-firſt Day of *June* 1739. rendered her ſelf to our ſaid Priſon of the *Fleet* before *William Forteſcue*, Eſq; one of our Juſtices of our Court of the Bench in Diſcharge of her Bail, at the Suit of *U. R.* and *H. C.* for 40 *l.* And becauſe the ſaid *U.* and *H.* have not proceeded to charge the ſaid *M.* in Execution within two Terms next after Judgment obtained, according to the Rules of our ſaid Court of the Bench, We therefore command you, that if the ſaid *M.* be detained in your Cuſtody for that, and no other Cauſe, that then you ſuffer her to

to go at large, as you will anſwer the contrary at your Peril. Witneſs, &c.

Superſedeas *for want of Proceeding to Judgment and Execution at the Suit of ſeveral Plts.*

GEORGE the Second, &c. To the Warden of our Priſon of the *Fleet*, Greeting. Whereas it hath been certified to our Juſtices of our Court of the Bench at *Weſtminſter*, that *A. B.* was committed to our ſaid Priſon of the *Fleet* for want of Bail, upon our Writ of *Habeas Corpus*, at the Suit of *C. D.* in a Plea of Treſpaſs, and alſo in a certain Plea of Debt upon Demand for 45 *l.* And on the Twenty-ſeventh of *May* 1735. was charged with a Declaration at the Suit of *E. F.* in a Plea of Treſpaſs on the Caſe for 50 *l.* And on the Thirtieth Day of the ſame Month was charged with a Declaration at the Suit of the ſaid *C.* in a Plea of Debt for 40 *l.* And alſo on the Thirteenth Day of *June* then next following was charged with another Declaration at the Suit of *G. H.* in a Plea of Treſpaſs on the Caſe for 20 *l.* And for that it appeareth to our ſaid Juſtices, that the ſaid *C.* and *E.* or either of them, have not proceeded to charge the ſaid *A.* in Execution in due Time in the ſaid Cauſe, or either of them, according to the Rules and Orders of our ſaid Court; And alſo, for that it appeareth to our ſaid Juſtices that the ſaid *G.* hath not in due Time proceeded to Judgment againſt the ſaid *A.* in the ſaid Cauſe, according to the Rules and Orders of our ſaid Court; And becauſe the ſaid *A.* hath appeared

in

in our ſaid Court by his lawful Attorney in the ſeveral Actions aforeſaid; Therefore, *&c.*

Proceedings in Ejectment.

An Action of Treſpaſs and Ejectment, what it is.

AN Action of Treſpaſs and Ejectment is given to a Tenant for Term of Years, who is Ouſted of his Term, and he may thereby recover the Remainder of his Term and Damages. It is now uſed as the moſt common Action for Trying Titles to Land in the Room of many real Actions.

This Action is generally grounded on a mere Fiction. The Perſon who claims the Meſſuages or Lands in Diſpute, and who is called the Leſſor of the Plaintiff, is ſuppoſed to have made a Leaſe of the Premiſſes to the Plaintiff for a Term of Years yet in Being, the Plaintiff is ſuppoſed to have entered by Virtue of that Leaſe, and the Defendant, who is termed the caſual Ejector (being only a nominal Perſon) is ſuppoſed to have entered upon the Plaintiff and turned him out of Poſſeſſion.

Of Commencing this Action.

The common Method of commencing this Action is by delivering a Copy of the Declaration to the Tenant in Poſſeſſion of the Premiſſes, with a Notice thereunder written to appear and defend his Title, or elſe that the Defendant, the caſual Ejector, will ſuffer Judgment to go by

by Default, and thereby the Tenant will be put out of Poſſeſſion.

The Tenant in Poſſeſſion may be admitted to defend his Title, on entring into the common Rule.

The Tenant in Poſſeſſion may be admitted to defend his Title on entering into the common Rule, *viz.* to become Defendant in the Room of the Defendant the caſual Ejector, receive a Declaration, plead the General Iſſue, and at the Trial to confeſs the Leaſe, Entry and actual Ejectment of the Plaintiff.

Thomſon.

Trinity *Term in the Seventh Year of King* George *the Second.*

Declaration in Ejectment of five Meſſuages.

Middleſex, *to wit,* JOHN *Doe*, late of the Pariſh of St. *George the Martyr* in the County of *Middleſex*, Yeoman, was attached to anſwer *Richard Roe* of a Plea, wherefore with Force and Arms he entered into five Meſſuages with the Appurtenances in the Pariſh of *Stebon-Heath*, otherwiſe *Stepney*, in the County of *Middleſex*, which *Thomas Bland* and *Conrade de Golls* demiſed to the ſaid *Richard* for a Term which is not yet expired, and ejected him from his ſaid Farm, and other Wrongs to him did, to the great Damage of the ſaid *Richard*, and againſt the Peace of our Sovereign Lord the King; And whereupon the ſaid *Richard* by *Joſeph Dobbyns* his Attorney complains, That whereas the ſaid *Thomas* and *Conrade* on the Twenty-fifth Day of *April* in the

Sixth Year of the Reign of His ſaid Majeſty, at the ſaid Pariſh of *Stebon-Heath*, otherwiſe *Stepney*, in the County aforeſaid, had demiſed to the ſaid *Richard* the ſaid Tenements with the Appurtenances; To have and to hold the ſaid Tenements with the Appurtenances to the ſaid *Richard* and his Aſſigns, from the Twenty-fourth Day of *April* aforeſaid in the Year aforeſaid, unto the full End and Term of Five Years thence next enſuing and fully to be complete and ended; by Virtue of which Demiſe the ſaid *Richard* entered into the ſaid Tenements with the Appurtenances, and was poſſeſſed thereof; And the ſaid *Richard* being ſo poſſeſſed thereof, the ſaid *John* afterwards, *to wit*, on the ſaid Twenty-fifth Day of *April* in the ſaid Sixth Year, with Force and Arms, *&c.* entered into the ſaid Tenements with the Appurtenances which the ſaid *Thomas* and *Conrade* had demiſed to the ſaid *Richard* in Form aforeſaid, for a Term which is not expired, and ejected the ſaid *Richard* from his ſaid Farm, and other Wrongs, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* whereupon the ſaid *Richard* ſaith, that he is injured, and hath Damage to the Value of Twenty Pounds; And thereupon he brings ſuit, *&c.*

Mr. *John Wilkinſon*, I am informed that you are in Poſſeſſion of, or claim Title to, the Premiſſes in this Declaration mentioned, *The Notice.*

ed, or to ſome Part thereof; And I being ſued in this Action as a caſual Ejector, and having no Claim or Title to the ſaid Premiſſes, do adviſe you to appear on the Firſt Day of the next *Michaelmas* Term in His Majeſty's Court of *Common Pleas* at *Weſtminſter*, by ſome Attorney of that Court, and then and there by Rule of the ſame Court, to cauſe yourſelf to be made Defendant in my ſtead, otherwiſe I ſhall ſuffer Judgment therein to be entered againſt me by Default, and you will be turned out of Poſſeſſion. I am

Your humble Servant,

John Doe.

Cooke.

Eaſter *Term in the Thirteenth Year of the Reign of King* George *the Second.*

Declaration in Ejectment of Manors, Meſſuages, Barns, Stables, &c.

Suffolk, *to wit*, T. C. late of *London*, Gentleman, was attached to anſwer *E. S.* in a Plea, wherefore with Force and Arms he entered into the Manors of *K.* otherwiſe *K. H. C. H. B.* and *G. W.* and fifty Meſſuages, fifty Barns, fifty Stables, fifty Gardens, twenty Cottages, one Water Corn Mill, one Wind Mill, one Thouſand Acres of Land, one Thouſand Acres of Meadow, one Thouſand Acres of Paſture, five Hundred Acres of Wood, and five Hundred Acres of Furz and Heath, with the Appurtenances, in the Pariſhes of *G. W. L. W. B.* and *K.* in the ſaid County

ty of *Suffolk*, which the Honorable *M. G.* Spinſter, demiſed to the ſaid *E.* for a Term which is not yet expired, and ejected him from his ſaid Farm, and other Wrongs to him did, to the great Damage of the ſaid *E.* and againſt the Peace of our Sovereign Lord the King; And whereupon the ſaid *E.* by *J. W.* his Attorney complains, That whereas the ſaid *M.* on the Firſt Day of *January* in the Thirteenth Year of the Reign of His ſaid Majeſty, at *Ipſwich* in the County aforeſaid, had demiſed to the ſaid *E.* the ſaid Manors and Tenements with the Appurtenances; To have and to hold the ſaid Manors and Tenements, with the Appurtenances, to the ſaid *E.* and his Aſſigns, from the Twenty-ninth Day of *September* then laſt paſt, to the full End and Term of Seven Years then next following, and fully to be complete and ended: By Virtue of which ſaid Demiſe the ſaid *E.* entered into the ſaid Manors and Tenements with the Appurtenances, and was poſſeſſed thereof; and the ſaid *E.* being ſo poſſeſſed thereof the ſaid *T.* afterwards (that is to ſay) on the ſaid Firſt Day of *January* in the ſaid Thirteenth Year, with Force and Arms, that is to ſay, with Swords, Staves Knives, entered into the ſaid Manors and Tenements with the Appurtenances, which the ſaid *M.* demiſed to the ſaid *E.* in Manner aforeſaid, for the Term aforeſaid, which is not yet expired, and ejected the ſaid *E.* out of his ſaid Farm, and other

Wrongs, &c. to the great Damage, &c. and againſt the Peace, &c. Whereupon the ſaid *E.* ſays he is injured, and hath Damage to the Value of Twenty Pounds: And thereupon he brings this Suit, &c.

T. H.

The Notice. I am informed that you are in Poſſeſſion, or claim Title to the Premiſſes in this Declaration of Ejectment mentioned, or to ſome Part thereof; And I being ſued in this Action as a caſual Ejector, and having nor Claim or Title to the ſame, do adviſe you to appear on the Firſt Day of next *Trinity* Term in His Majeſty's Court of Common Bench at *Weſtminſter*, by ſome Attorney of that Court, and then and there by Rule of the ſame Court to cauſe yourſelf to be made Defendant in my ſtead, otherwiſe I ſhall ſuffer Judgment therein to be entered againſt me, and you will be turned out of Poſſeſſion. I am

Your loving Friend,

20 *May* 1740. *T. C.*

Declaration in Ejectment on a double Demiſe. Lincoln, *to wit*, *A. B.* late of, &c. was attached to anſwer *C. D.* in a Plea, wherefore with Force and Arms he entered into five Hundred Acres of Land, &c. in the Pariſh of *S.* in the County aforeſaid, which *E. F.* demiſed to the ſaid *C.* for a Term which is not yet expired; and into five Hundred other Acres, &c. in the Pariſh of *S.* aforeſaid in the County afore-

aforeſaid, which *G. H.* demiſed to the ſaid *C.* for a Term which is not yet expired, and ejected him from his ſaid ſeveral Farms, and other Wrongs to him did, to the great Damage of the ſaid *C.* and againſt the Peace of our Lord the now King, *&c.* And whereupon the ſaid *C.* by *W. R.* his Attorney complains, that whereas the ſaid *E.* on the Day of in the Year of the Reign of the ſaid Lord the King, at in the County aforeſaid, had demiſed to the ſaid *C.* the Tenements aforeſaid firſt above mentioned, with the Appurtenances; To have and to hold the ſame Tenements firſt above mentioned with the Appurtenances, to the ſaid *C.* and his Aſſigns, from the Feaſt of then laſt paſt, to the full End and Term of Years from thence following, and fully to be complete and ended. *And whereas alſo* the ſaid *G.* on the ſame Day of in the ſaid Year of the Reign of the ſaid Lord the King, at aforeſaid in the County aforeſaid, had demiſed to the ſaid *C.* the Tenements aforeſaid laſt above mentioned, with the Appurtenances; To have and to hold the ſame Tenements laſt above mentioned with the Appurtenances to the ſaid *C.* and his Aſſigns, from the ſaid Day of then laſt paſt, to the full End and Term of Years from thence next following, and fully to be complete and ended: By Virtue of which ſaid ſeveral Demiſes the ſaid

1. *Demiſe.*

2. *Demiſe.*

C. entered into the ſeveral Tenements aforeſaid, with the Appurtenances, and was poſſeſſed thereof; and the ſaid *C.* being ſo poſſeſſed thereof, the ſaid *A.* afterwards, that is to ſay, on the Day of in the ſaid Year of the Reign of our ſaid Lord the King, with Force and Arms, that is to ſay, with Swords, Staves and Knives, entered into the ſaid ſeveral Tenements above ſpecified, with the Appurtenances, reſpectively demiſed to the ſaid *C.* in Manner aforeſaid, and upon the Poſſeſſion of the ſaid *C.* thereof, and ejected the ſaid *C.* out of his ſaid ſeveral Farms (his ſaid ſeveral Terms therein not being ended) and other Wrongs, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* Whereupon the ſaid *C.* ſaith, that he is injured and damaged to the Value of 10 *l.* And thereof he bringeth Suit, *&c.*

Demiſe may be laid on a Day after the Term the Declaration is of.

In many Caſes the Demiſe may be laid on a Day after that Term, of which the Declaration is; as where a Title accrued at *Chriſtmas*, a Declaration of *Michaelmas* Term is delivered before the Eſſoin-Day of *Hilary* Term, and the Demiſe is laid to be on the Firſt Day of *January*, if the Tenant does not appear and defend, the Court will give Judgment againſt the Caſual Ejector, and the Tenant cannot move in Arreſt of Judgment, as being no Party to the Suit; neither can a Writ of Error be brought in the Caſual Ejector's Name.

If

If the Tenant does appear, all will be right, for a Declaration and Iſſue will be made up of *Hilary* Term, which will be after the Demiſe.

No Judgment againſt Caſual Ejector without Motion and Notice to Tenant in Poſſeſſion.

No Judgment ſhall be entered againſt the Caſual Ejector without Motion firſt made by a Serjeant in Court, and Oath in Writing of Notice to the Owner or Tenant in Poſſeſſion of the Lands in Queſtion, notwithſtanding any former Rule. *Paſ.* 12 *Car.* 2.

To whom a Declaration in Ejectment may be delivered.

The Delivery of a Declaration in Ejectment muſt be to the Tenant himſelf or his Wife, otherwiſe not good, though it be to the Tenant's Son, Daughter or Apprentice, unleſs the Tenant afterwards acknowledged the Receipt thereof; which Acknowledgment muſt be proved to the Court by Affidavit.

Tenant in Poſſeſſion to have Notice to appear the Beginning of the enſuing Term.

Upon the Delivery of a Declaration in Ejectment in *London* or *Middleſex*, the Tenant in Poſſeſſion is to be acquainted, that he is to appear by his Attorney here in Court in Defence of his Title, in the Beginning of the next Term after the Delivery of the Declaration. And the Plaintiff ſhall take nothing by his Motion for Judgment againſt the Caſual Ejector for Default of Appearance, unleſs the Motion be made within one Week next after the Firſt Day of every *Michaelmas* Term, and every *Eaſter* Term, and within Four Days after the Firſt Day of every *Hilary* and *Trinity* Term. *Trin.* 32 *Car.* 2.

Within what Time Motion for Judgment muſt be made.

This Rule does not extend to vacant Poſſeſſions.

Declaration muſt be delivered before the Eſſoin-Day of the Term.

The Declaration muſt be delivered to the Tenant before the Eſſoin-Day of the Term, or the Plaintiff cannot have Judgment till the Term following.

Notice in Country Ejectments.

In a Country Ejectment the Tenant is to appear and plead within Four Days excluſive after the next iſſuable Term; but if the Lands lie in a County where the Aſſizes are held but once a Year, I apprehend he is not to appear and plead till Four Days after the Term next preceding ſuch Aſſizes.

In Lond. *and* Middleſex.

If the Lands lie in *London* or *Middleſex*, the Notice to appear ſhould be for the Firſt Day of the next Term; if in any other County the Notice may be for the Beginning of the next Term, or for the next Term generally.

To move for Judgment you make an Affidavit of the Service of the Declaration in this Form:

In the *Common Pleas.*

Richard Roe against *John Doe*, } In Ejectment on the Demiſe of *Thomas Bland* and *Conrade de Golls.*

Affidavit of Service of a Declaration in Ejectment.

L. R. of, *&c.* makes Oath, That he this Deponent did, on the Day of laſt paſt, deliver to Mr. *John Wilkinſon*, the Tenant in Poſſeſſion of the Premiſſes mentioned in the Declaration hereunto annexed, or of ſome Part

Part thereof, a true Copy of the ſaid Declaration, and of the Notice there under written, and did at the ſame Time inform the ſaid *John Wilkinſon*, that unleſs he would appear in this Court by ſome Attorney thereof on the Firſt Day of this preſent *Michaelmas* Term, and cauſe himſelf by Rule of the ſaid Court to be made Defendant in the Room of the Caſual Ejector *John Doe*, Judgment would be entered againſt the ſaid Caſual Ejector by Default, and that he the ſaid *John Wilkinſon* would be turned out of Poſſeſſion; or Words to that or the like Effect.

On this Affidavit you get a Serjeant to move for Judgment againſt the Caſual Ejector.

You Pay,

	l.	*s.*	*d.*
For the Duty and Oath of the Affidavit —— ——	0	2	0
To the Serjeant to move ——	0	10	6
Rule Duty, and filing the Affidavit	0	6	0

Thomſon.

Hilary *the Seventh of King* George *the Second.*

Hunt againſt *Jones*, The Caſual Ejector. } THE Welfth Day of *February*, upon the Affidavit of *Thomas Shewell*, Gentleman. It is ordered, That unleſs *William Collins*, Tenant in Poſſeſſion of the Tenements in Queſtion, or any other Perſon concerned in the

Rule for Judgment againſt the Caſual Ejector.

Title thereof, on *Saturday* next ſhall appear by an Attorney of this Court, who ſhall then forthwith receive a Declaration and plead thereto the General Iſſue, and conſent to the common Rule for confeſſing Leaſe, Entry and Ouſter, upon the Trial to be had, let Judgment againſt the Caſual Ejector be entered; And in the mean Time Proceedings are to ſtay, upon the Motion of Maſter Serjeant *Baynes*.

By the Court.

Enter'd. *Townesend.*

Secondary not to receive Decl. in Ejectment unleſs ſigned by a Serjeant.

No Declaration in Ejectment ſhall be taken or received by the Secondary, unleſs ſigned by ſome Serjeant at Law, and delivered by himſelf to the Secondary in open Court. *Hil.* 2 *Geo.* 2.

Secondary, on Requeſt, to ſhew his Alphabetical Paper of Ejectments.

The Secondary ſhall the Morning next after the End of every Term, and at all other Times when required, ſhew to any Perſon who ſhall demand the ſame, his Alphabetical Paper of Ejectments, moved or delivered into Court in each Term. *Same Rule.*

Of ſigning Judgment againſt the Caſual Ejector.

When the Rule is out, you ſearch the Prothonotary's Plea Book, and if no Plea is left, you ingroſs the Declaration on a double Half-Crown ſtamped Sheet of Paper, to which you affix the Rule againſt the Caſual Ejector, and the Prothonotary will ſign Judgment, then enter your Judgment by *Nil Dicit* on the Roll, and make out a Writ of *Habere facias Poſſeſſionem*, for which you

pay Duty 1 *s.* 6 *d.* Signing 1 *s.* 4 *d.* Sealing 7 *d.*

If the Tenant appears, his Attorney gets a blank Rule from the Secondary, for which he pays 6 *d.* then fills it up according to the enſuing Form, and ſigns his Name at the Bottom of it, ingroſſes the General Iſſue, Not guilty (*poſtea fol.* 301.) in a double Penny ſtamp'd Sheet of Paper and annexes the Rule to it, after he enters an Appearance for the Tenant with the proper Filacer, who thereupon ſtamps the Rule, and then leaves the Plea and Rule annexed with the Prothonotary. *Of the Tenant's Appearing.*

The Expence is as follows:

	l.	*s.*	*d.*
Search for Motion for Judgment againſt the Caſual Ejector —	0	0	6
Blank Rule —	0	0	6
Entering Appearance —	0	2	0
Entering Plea —	0	2	0

Thomſon.

Michaelmas *Term Seventh* George *the Second.*

The General Rule.

Middleſex, *to wit*, IT is order'd by Conſent of *J. D.* Attorney for the Plaintiff, and *L. R.* Attorney for *J. W.* who claims Title to the Tenements in Queſtion, that the ſaid *J. W.* ſhall be admitted Defendant; And that the ſaid *J. W.* ſhall immediately appear by his ſaid Attorney, who ſhall receive a Declaration, and plead there- Roe *againſt* Doe *for* 5 *Meſſuages with the Appurtenances, in the Pariſh of* Stepney *in the County of* Midd. *on the Demiſe of* T. Bland *and* Con. de Golls.

thereto the General Iſſue this Term; And at the Trial to be had thereon ſhall appear in his proper Perſon, or by his Counſel or Attorney, and confeſs the Leaſe, Entry and Ouſter of ſo much of the Tenements ſpecified in the Plaintiff's Declaration, as are in the Poſſeſſion of the ſaid Defendant or his Tenants, or any Perſons claiming by or under his Title; or that in Default thereof Judgment ſhall be thereupon entered againſt the Defendant *John Doe* the Caſual Ejector; but Proceedings ſhall be ſtayed againſt him until Default ſhall be made in any of the Premiſſes; And by the like Conſent it is further ordered, That if by Reaſon of any ſuch Default the Plaintiff ſhall happen to be Nonſuited upon the Trial, the ſaid *J. W.* ſhall take no Advantage thereof, but ſhall thereupon pay to the Plaintiff Coſts to be taxed by the Prothonotary. And it is further ordered, That the Leſſor of the Plaintiff ſhall be liable to the Payment of Coſts to the ſaid *J. W.* by the Court here to be in any Manner allowed or adjudged.

By the Court.

J. D. for the Plt.

L. R. for the Deft.

From this Rule the Plaintiff's Attorney gets two Rules drawn up by the Secondary in the ſame Manner, on Stamp Paper, one for each Party; this coſts 7*s.* and then the Plaintiff's Attorney will make up the Iſſue, and deliver a Copy of it, and No-

Notice of Trial, to the Defendant's Attorney; And thereupon proceed to Trial, as in other Caſes.

If there be ſeveral Defendants, and at the Trial the Plaintiff obtains a Verdict againſt ſome of the Defendants, and the other Defendants refuſe to confeſs Leaſe, Entry and Ouſter, the Plaintiff may ſign Judgment againſt the Caſual Ejector as to them. *Where ſeveral Defts. and ſome refuſe to confeſs Leaſe Entry, &c.*

If the Defendant's Attorney does not pay for the Iſſue, the Plaintiff's Attorney may ſign Judgment againſt the Defendant, but not againſt the Caſual Ejector, *ut dicitur*; but ſee the Words of the Rule by Conſent. *If Iſſue not paid for Judgment againſt Deft. who appeared.*

A Niſi Prius *Record in Ejectment, with the* Poſtea.

Thomſon.

Pleas at Weſtminſter *before Sir* Robert Eyre, *Knt. and his Companions, the Lord the King's Juſtices of the Bench, of the Term of* Eaſter *in the Sixth Year of the Reign of* George *the Second, by the Grace of God of* Great Britain, France *and* Ireland *King, Defender of the Faith, and ſo forth.*

Ro. 579.

Middleſex, *to wit*, C. L. late of the Pariſh of St. *John the Baptiſt* in the Precinct of the *Savoy* in the *Strand* in the Coun- *Declaration.*

County aforeſaid, Gent. was attached to anſwer *R. R.* of a Plea, wherefore with Force and Arms, five Chambers and one Kitchin with the Appurtenances, in the Precinct of the *Savoy* aforeſaid in the *Strand* in the County aforeſaid, which Sir *P. B.* Baronet, and *T. B.* Eſq; to the aforeſaid *R.* did demiſe for a Term which is not yet paſt, he the ſaid *C.* entered, and the ſaid *R.* from his Farm aforeſaid ejected, and other Enormities to him did, to the great Damage of him the ſaid *R.* and againſt His preſent Majeſty's Peace. And whereupon the ſaid *R.* by *J. S.* his Attorney complains, That whereas the aforeſaid Sir *P. B.* and *T. B.* the Fifth Day of *January* in the Sixth Year of his preſent Majeſty's Reign, at the Pariſh of Saint *Clement Danes* in the County aforeſaid, did demiſe unto him the ſaid *R.* the Tenements aforeſaid, with the Appurtenances; To have and to hold the Tenements aforeſaid, with the Appurtenances, to the ſaid *R.* and his Aſſigns, from the Eleventh Day of *December* then laſt paſt, unto the full End and Term of Five Years from thence next following and fully to be complete and ended: By Virtue of which Demiſe the ſaid *R.* into the Tenements aforeſaid, with the Appurtenances, did enter, and was thereof poſſeſſed; and he the ſaid *R.* ſo being thereof poſſeſſed, the aforeſaid *C.* afterwards, *to wit*, the ſame Fifth Day of *January* in the Sixth Year aforeſaid, with Force and Arms, *&c.* into the Tene-

ments

ments aforeſaid, with the Appurtenances, which the aforeſaid Sir *P. B.* and *T. B.* to him the ſaid *R.* in Form aforeſaid had demiſed for the Term aforeſaid which is not yet paſt, did enter, and him the ſaid *R.* from his Farm aforeſaid did eject, and other Enormities did to the ſaid *R.* to the great Damage of the ſaid *R.* and againſt the Peace of His preſent Majeſty; Whereupon he ſaith, that he is damnified, and hath Damage to the Value of 20 *l.* And thereupon brings Suit, and ſo forth.

And the ſaid *C. L.* by *G. H.* his Attorney comes and defends the Force and Injury by the aforeſaid *R.* againſt him charged, when and where, and in ſuch Manner, as this Court ſhall award, and ſaith, That he is not Guilty of the Treſpaſs and Ejectment aforeſaid, in ſuch Manner and Form as the ſaid *R. R.* hath againſt him above complained: And of this he puts himſelf upon his Country: And the aforeſaid *R.* does ſo likewiſe, *&c.* Therefore the Sheriff is commanded to Cauſe to come here in Five Weeks from the Feaſt Day of *Eaſter* Twelve good and lawful Men of the Body of his County, every one of whom to have Ten Pounds at leaſt by the Year in Lands, Tenements or Rents, by whom the Truth of the Matter may be better known, and who neither are any ways related to the ſaid *R. R.* Plaintiff, nor to the ſaid *C. L.* Defendant, to recogniſe whether the ſaid *C. L.* is guilty of the Premiſſes, as the ſaid

Plea.

Award of the Venire.

R.

R. above complains, becauſe as well the ſaid *R.* as the ſaid *C.* between whom the Contention thereupon is, have put themſelves upon their Country.

Jurata. Middleſex, *to wit*, The Jury between *R. R.* Plaintiff, and *C. L.* late of the Pariſh of *Saint John Baptiſt* in the Precinct of the *Savoy* in the *Strand* in the County aforeſaid, Gentleman, in a Plea of Treſpaſs and Ejectment of the Farm, is reſpited here until on the Morrow of the Holy *Trinity*, unleſs Sir *Robert Eyre*, Knight, Chief Juſtice of the Lord the King of the Bench here aſſigned, by Form of the Statute in that Caſe made and provided, on *Tueſday* the Eighth Day of *May* at *Weſtminſter* in the great Hall of Pleas there, commonly called *Weſtminſter-Hall*, in the ſaid County, ſhall firſt come for the Default of the Jury, becauſe none came, therefore let the Sheriff have the Bodies of the ſeveral Perſons mentioned in the Panel to the Writ of *Habeas Corpora Juratorum* annex'd; And be it known, that the Juſtices thereupon here in Court in the ſame Term delivered a Writ to the Deputy of the Sheriff of the County aforeſaid, to be executed according to due Form of Law, and ſo forth.

Le Sciendum.

Poſtea. Afterwards, the Day and Place within contained, before Sir *Robert Eyre*, Knight, Chief Juſtice within written, having *John Higham*, Gentleman, for his Aſſociate, by Form

Form of the Statute, and ſo forth, cometh the within named *R. R.* by his Attorney within contained, and the within Written *C.L.* although ſolemnly called, cometh not; Therefore let the Jury, whereof Mention is within made, be taken againſt him by Default; And the Jurors of the ſaid Jury being called come, who to ſpeak the Truth of the within contained being elected, tried and ſworn, ſay upon their Oath, That the ſaid *C.* is guilty of the Treſpaſs and Ejectment within mentioned, as the ſaid *R. R.* within complains againſt him; And they aſſeſs the Damages of him the ſaid *R.* on occaſion thereof, over and above the Coſts and Charges which he has been put to about his Suit in this Behalf, to One Shilling; and for the ſaid Coſts and Charges to Twenty Shillings; Therefore, and ſo forth.

	l.	*s.*	*d.*
Damages	0	1	0
Coſts	1	0	0
Increaſe	15	15	8
In all	16	16	8

Signed 30 *May* 1733.

Of new Trials in Ejectment.

It is not uſual to grant new Trials in Ejectment, where the Verdict is for the Defendant, becauſe the Plaintiff may bring a new Ejectment, and no other Diſadvantage happens to him. But where the Verdict is for the Plaintiff it is otherwiſe, and new Trials have been granted; for there the

Conſequence of not granting a new Trial is the Alteration of the Poſſeſſion of the Premiſſes in Queſtion.

Of Coſts in Ejectment.

Where a Verdict in Ejectment is for the Defendant, or the Plaintiff becomes Nonſuited upon Evidence, a *Ca. Sa.* muſt be made out againſt the Plaintiff, and ſhewed to his Leſſor, and the Coſts muſt be demanded thereupon of the Leſſor.

Where the Plaintiff is Nonſuited by reaſon of the Defendant's not confeſſing Leaſe, Entry and Ouſter, the Coſts are taxed on the Rule by Conſent, and Judgment ſigned againſt the Caſual Ejector.

When a Leaſe muſt be actually ſealed on the Premiſſes.

If there be no Perſon in the Houſe, or on the Premiſſes, to deliver a Declaration in Ejectment to, a Leaſe of Ejectment muſt be ſealed at the Houſe, or on the Premiſſes, and the Leſſee left in Poſſeſſion, and ſome Perſon appointed to enter and eject him; And then an Action may be brought againſt ſuch Ejector and the Poſſeſſion recovered.

Where fixing the Declaration to the Door of the Houſe, &c. ſhall be legal Service.

Where Half a Year's Rent ſhall be in Arrear, the Landlord, having a lawful Right to Re-enter for Non-Payment, may ſerve a Declaration in Ejectment without a formal Demand or Re-entry, or in caſe the ſame cannot be legally ſerved, *affix ſuch Declaration on the Door of the demiſed Meſſuage, or ſome notorious Place of the Lands, which ſhall be deemed a legal Service*; and on Proof that Half a Year's Rent was due before the ſaid Declaration was ſerved, and no ſufficient Diſtreſs on the Premiſſes,

the

the Leſſor ſhall recover Judgment and Execution as fully as in caſe a formal Reentry had been made; and if the Leſſee ſhall ſuffer Judgment to be recovered on ſuch Ejectment and Execution, without paying the Arrears and Coſts, and without filing a Bill within ſix Months after Execution, he ſhall be barred from all Relief in Law or Equity, other than by Writ of Error, and the Leſſor ſhall hold the demiſed Premiſſes diſcharged from ſuch Leaſe. *Stat.* 4 *Geo.* 2. *c.* 28.

Rent and Coſts brought into Court, Proceedings to ſtay.

But if the Tenant before Trial will either tender to the Leſſor, or bring into Court the Rent in Arrear, together with all Coſts, all further Proceedings ſhall ceaſe. *Same Stat.*

On vacant Poſſeſſion may move for Judgment any Time in the Term.

If an Ejectment be brought on a vacant Poſſeſſion upon this Act of Parliament, the Plaintiff may move for Judgment againſt the Caſual Ejector at any Time in the Term; the Rule of *Trin.* 32 *Car.* 2. *antea fol.* 293. relating only to an Ejectment, where the Declaration is delivered to the Tenant in Poſſeſſion.

Tenant ſecreting Declaration in Ejectment forfeits three Years improved Rent.

A Tenant, to whom a Declaration in Ejectment ſhall be delivered for any Lands, Tenements or Hereditaments, ſhall forthwith give Notice thereof to his Landlord, or his Bailiff or Receiver, under Penalty of forfeiting the Value of Three Years improved or rack Rent of the Premiſſes ſo holden in Poſſeſſion of ſuch Tenant, to the Perſon of whom he holds. *Statute* 11 *Geo.* 2. *c.* 19.

Landlord impowered to make himself Defendant.

The Court where such Ejectment shall be brought may suffer the Landlord to make himself Defendant, by joining with the Tenant to whom such Declaration shall be delivered, in case he shall appear; but in case such Tenant shall refuse to appear, Judgment shall be signed against the Casual Ejector for want of such Appearance; but if the Landlord of any Part of the Lands, Tenements or Hereditaments, for which such Ejectment was brought, shall desire to appear by himself, and consent to enter into the like Rule, that by the Course of the Court the Tenant in Possession, in case he had appeared, ought to have done, then the Court shall permit such Landlord so to do, and order a Stay of Execution upon such Judgment against the Casual Ejector, until they shall make further Order therein. *Same Statute.*

Habere facias Possessionem.

GEORGE the Second, *&c.* To, *&c.* Greeting. Whereas *J. M.* lately in our Court, before our Justices at *Westminster*, by the Consideration of the said Court, recovered his Term yet to come of and in the Manor of *S.* with the Appurtenances, and ten Messuages, five Hundred Acres of Land, one Hundred Acres of Meadow, three Hundred Acres of Pasture, with the Appurtenances in *S.* in your County, against *L. C.* late of, *&c.* which *J. C.* Gentleman, on the First Day of *October* in the ——— Year of our Reign, demised to the said *J. M.* to hold and enjoy to the said

ſaid *J. M.* and his Aſſigns, from the Feaſt of Saint *Michael* the Archangel then laſt paſt, unto the full End and Term of ſeven Years thence next enſuing, and fully to be complete and ended, which is not yet paſt; and whereupon the ſaid *L.* put out and amoved the ſaid *J. M.* from his Poſſeſſion, and ejected him from his ſaid Farm; Therefore we command you, that you cauſe the ſaid *J. M.* to have his Poſſeſſion of his ſaid Term yet to come of and in the ſaid Manor and Tenements aforeſaid, with the Appurtenances; And how you ſhall execute this our Precept make appear to our Juſtices at *Weſtminſter* in eight Days of the Purification of the Bleſſed *Mary*; And have there this Writ. Witneſs, *&c.*

Habere facias Poſſeſſionem, *and a* Fi. Fa'.

GEORGE the Second, *&c.* To, *&c.* Greeting. Whereas *W. D.* Gentleman, lately in our Court before our Juſtices at *Weſtminſter*, by the Conſideration of the ſaid Court recovered againſt *S. F.* late of, *&c.* his Term yet to come of and in one Meſſuage and fourteen Acres of Land with the Appurtenances in *L.* in your County, which *S. J.* and *E. J.* on the Firſt Day of *October* in the Year of our Lord ——— at *L.* aforeſaid, demiſed to the ſaid *W.* to hold and enjoy the ſaid Tenements with the Appurtenances, to him and his Aſſigns, from the ——— Day of ——— then laſt paſt, unto the End and Term of Three Years thence next enſuing, and fully to be complete and ended, which is not yet

paſt; And whereupon the ſaid *S.* put out and amoved the ſaid *W.* from his Poſſeſſion, and ejected him from his Farm, Therefore we command you, that without Delay you cauſe the ſaid *W.* to have his Poſſeſſion of his Term aforeſaid of and in the ſaid Meſſuage and Tenements, with the Appurtenances; And how you ſhall execute this our Precept make appear to our Juſtices at *Weſtminſter* in Eight Days of the Purification of the Bleſſed *Mary*. We alſo command you, that of the Goods and Chattels of the ſaid *S.* in your Bailiwick you cauſe to be made Eleven Pounds, which were adjudged to the ſaid *W.* in our ſaid Court for his Damages, which he had by occaſion of the Treſpaſs and Ejectment aforeſaid, and have that Money before our Juſtices at *Weſtminſter* at the ſaid Time, to render to the ſaid *W.* for his Damages aforeſaid, whereof the ſaid *S.* is convicted; And have there this Writ. Witneſs, *&c.*

Habere facias Poſſeſſionem *for Executor after a* Sci Fa'.

GEORGE the Second, *&c.* To, *&c.* Greeting. Whereas *A. G.* lately in our Court before our Juſtices at *Weſtminſter*, by the Conſideration of the ſaid Court recovered his Term of and in one Meſſuage, Twenty and eight Acres of Land, Five Acres of Meadow, and Seventeen Acres of Paſture, with the Appurtenances in *C.* in your County, againſt *D. B.* late of, *&c.* Merchant, which *W. N.* on the Firſt Day of *April* in the —— —— Year of

of our Reign, at *C.* aforeſaid, demiſed to the ſaid *A.* To hold and enjoy to him and his Aſſigns from the Feaſt of the Annunciation of the Bleſſed Virgin *Mary* then laſt paſt unto the End and Term of Three Years thence next enſuing and fully to be complete and ended, which is not yet paſt; And whereupon the ſaid *D.* put out and amoved the ſaid *A.* from his Poſſeſſion, and ejected him from his ſaid Farm therein, which ſaid *A.* after the ſaid Judgment was given, died, after whoſe Death it is conſidered in our ſaid Court, Sci. Fa'. that *C. W.* and *R. S.* Executors of the laſt Will and Teſtament of the ſaid *A.* have Execution againſt the ſaid *D.* of the Term aforeſaid yet to come of and in the ſaid Tenements with the Appurtenances, by the Default of the ſaid *D.* We therefore command you, that without Delay you cauſe the ſaid *C.* and *R.* to have Poſſeſſion of the ſaid Term yet to come of and in the ſaid Tenements with the Appurtenances; And how you ſhall execute this our Precept make appear to our Juſtices at *Weſtminſter* from the Day of the Holy *Trinity* in Three Weeks; And have there this Writ. Witneſs, *&c.*

Of Writs of Scire Facias.

A *Scire Facias* is a judicial Writ, and properly lies where one has recovered Debt or Damages, and has not ſued

out Execution within the Year and a Day. It alſo lies on a Recognizance of Bail; and in many other Caſes it is called a *Scire Facias*, becauſe of the Words of the Writ to the Sheriff, *viz.* *Quod Scire Facias præfat. D.* the Defendant, *Quod ſit coram, &c. Oſtenſurus ſi quid pro ſe habeat aut dicere ſciat quare, &c.* ſo as by this Writ it appears that the Defendant is to be warned to plead any Matter in Bar of Execution; and therefore although it be a judicial Writ, yet becauſe the Defendant may plead thereto, this *Scire Facias* in Law is accounted in Nature of an Action.

Sci. Fa. *after a Year and a Day.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *Middleſex*, Greeting. Whereas *J. R.* lately in our Court, *to wit*, in the Term of St. *Hilary* in the Twelfth Year of our Reign, before Sir *John Willes*, Knight, and his Companions, then our Juſtices of the Bench at *Weſtminſter*, by the Conſideration of the ſame Court recovered againſt *H. N.* late of, *&c.* otherwiſe called, *&c.* as well a certain Debt of Forty Pounds, as Sixty-three Shillings, which were adjudged to the ſaid *J. R.* in our ſame Court for his Damages which he had by occaſion of the Detaining that Debt, whereof the ſaid *H.* is convicted, as by the Record and Proceedings thereof remaining in our ſame Court, before our Juſtices at *Weſtminſter* manifeſtly appears;

appears; *Yet* Execution of the ſaid Judgment ſtill remains to be made, as on the Information of the ſaid *J. J.* we have been given to underſtand; And becauſe we are willing that thoſe Things which in our ſame Court are rightly acted be demanded by a due Execution, We command you, that by good and lawful Men of your Bailiwick, you make known to the ſaid *H.* that he be before our Juſtices at *Weſtminſter*, on [*the Return*] to ſhew if any Thing he has or knows to ſay for himſelf, why the ſaid *J.* ought not to have Execution againſt him for the Debt and Damages aforeſaid, according to the Form of the ſaid Recovery, if it ſhall ſeem expedient to him; And have there the Names of them, by whom you ſhall make known to him, and this Writ. Witneſs Sir *John Willes*, Knight, at *Weſtminſter*, the ——— Day of, *&c.*

Note; If the Plaintiff has within the Year and Day ſued out an Execution, returned and filed it, and continued it by *Vic. non miſit breve*, it is ſufficient to warrant an Execution after the Year and a Day.

In this Caſe one *Scire Facias*, with a *Nihil* returned, is ſufficient.

After you have got it return'd, you enenter it on the Roll in the following Manner:

Middleſex, *to wit*, The Sheriff was commanded, Whereas *J. R.* lately in the *Entry of a* Scire Facias.

Court of our Lord the now King, *to wit*, in the Term of St. *Hilary* in the Twelfth Year of the Reign of our ſaid Lord the King, before Sir *John Willes*, Knight, and his Companions, then Juſtices of our ſaid Lord the King of the Bench here, *to wit*, at *Weſtminſter*, by the Conſideration of the ſame Court, recovered againſt *H. N.* late of, *&c.* otherwiſe called, *&c.* as well a certain Debt of Forty Pounds, as Sixty-three Shillings which were adjudged to the ſaid *J.* in the ſame Court for his Damages which he had by occaſion of the Detaining that Debt whereof the ſaid *H.* is convicted, as by the Record and Proceedings thereof remaining in the ſame Court of our ſaid Lord the now King here, *to wit*, at *Weſtminſter* aforeſaid, manifeſtly appears; *Yet* Execution of the ſaid Judgment ſtill remains to be made, as on the Information of the ſaid *J.* the King has been given to underſtand; And becauſe, *&c.* by good, *&c.* he make known to the ſaid *H.* that he be here at *Weſtminſter* at this Day, *to wit*, [*the Return*] to ſhew if any Thing, *&c.* why the ſaid *J.* ought not to have Execution againſt him for the Debt and Damages aforeſaid, according to the Form of the ſaid Recovery, if, *&c.* And now here at this Day came the ſaid *J.* by *L. R.* his Attorney, and offered himſelf on the Fourth Day againſt the ſaid *H.* in the Plea aforeſaid, and he being ſolemnly demanded came not; And the Sheriff now ſends that he has nothing, *&c.* nor is he found,

found, *&c.* It is therefore considered that the said *J.* have Execution against the said *H.* for the Debt and Damages aforesaid, by the Default, *&c.*

You also enter it on the Prothonotary's Remembrance, and give a Rule for Judgment.

Scire Facias *in Debt for an Administrator.*

GEORGE the Second, *&c.* To, *&c.* Whereas *H. S.* lately in our Court, *to wit*, in the Term of St. *Hilary* in the Thirteenth Year of our Reign, before Sir *John Willes*, Knight, and his Companions, then our Justices of the Bench at *Westminster*, by the Consideration of the same Court, recovered against *N. C.* late of, *&c.* otherwise called, *&c.* as well a certain Debt of two Hundred Pounds as Sixty-three Shillings, which in our said Court were adjudged to the said *H.* for his Damages which he had by occasion of the Detaining that Debt whereof the said *N.* is convicted, as by the Record and Proceedings thereof remaining in our said Court manifestly appears; *Yet* Execution of the said Judgment still remains to be made, and the said *H.* is dead, as on the Information of *W. S.* Widow, Administratrix of all the Goods and Chattels which were of the said *H.* at the Time of his Death, we have been given to understand; And because we are willing that those Things which in our said Court have been rightly acted should be demanded by a due Execution, we

we command you, that by good and lawful Men of your Bailiwick you make known to the ſaid *N.* that he be before our Juſtices at *Weſtminſter* on [*the Return*] to ſhew if any Thing he has or knows to ſay for himſelf, why the ſaid *W.* ought not to have Execution againſt him, *&c. ut antea fol.* 311.

Entry of a Scire Facias *in Debt by an Executor.*

——— *to wit*, The Sheriff was commanded, [*ut antea fol.* 311.] yet Execution ſtill remains to be made, and the ſaid *W.* is dead, as on the Information of *R. W.* Executor of the Teſtament of the ſaid *W.* the King has been informed; And becauſe, *&c.* by good, *&c.* make known to the ſaid *B.* [*ut antea fol.* 312.] And now here at this Day came the ſaid *R.* by *J. S.* his Attorney, and offered himſelf on the 4th Day againſt the ſaid *B.* in the Plea aforeſaid, and the ſaid *B.* being ſolemnly demanded came not; and the Sheriff now returns that he has nothing, *&c.* nor is he found, *&c.* And upon this the ſaid *R.* brings here into Court the Letters Teſtamentary of the ſaid *W.* by which it ſufficiently appears to the Court here, that the ſaid *R.* is Executor of the Teſtament of the ſaid *W.* and thereof has the Adminiſtration, *&c.* and he prays Execution againſt the ſaid *B.* of the Debt and Damages aforeſaid in Form aforeſaid to be adjudged to him, *&c.* It is therefore conſidered that the ſaid *R.* have Execution againſt the ſaid *B.* of the Debt

Nihil *return'd.*

Profert.

Judgment.

Debt and Damages aforeſaid, by the Default of the ſaid *B. &c.*

Entry of a Scire Facias *in Caſe againſt an Adminiſtrator.*

——— *to wit*, The Sheriff was commanded. Whereas *R. G.* lately in the Court of our Lord the King here, *to wit*, in the Term of St. *Hilary* in the Firſt Year of his Reign, before Sir *Robert Eyre*, Knight, and his Companions, then Juſtices of our Lord the King of the Bench here, *to wit*, at *Weſtminſter*, by the Conſideration of the ſame Court, recovered againſt *P. G.* late of *Southwark* in the County of *Surrey*, Dyer, Eighteen Pounds, which to the ſaid *R.* in the ſame Court of our Lord the King now here, were adjudged for his Damages, which he had by occaſion of the not performing certain Promiſes and Undertakings made by the ſaid *P.* in his Life-time to the ſaid *R.* whereof the ſaid *P.* was convicted, as by the Record and Proceedings thereof remaining in the ſame Court of our Lord the King now here, *to wit*, at *Weſtminſter* aforeſaid, manifeſtly appears; *Yet* Execution of the ſaid Judgment ſtill remains to be made, and the ſaid *P.* is dead, as on the Information of the ſaid *R.* the King has been informed; And becauſe, *&c.* that by good, *&c.* he ſhould make known to *A. G.* Widow, Adminiſtratrix of the Goods and Chattels which were of the ſaid *P.* who died Inteſtate, *&c.* that ſhe be here at this Day, *to wit*, from the Day of St. *Michael* in three Weeks, to ſhew if any Thing,

Thing, &c. why the ſaid *R.* ought not to have Execution againſt her of the Damages aforeſaid, of the Goods and Chattels which were of the ſaid *P.* at the Time of his Death, being in the Hands of the ſaid *A.* to be adminiſtered, if ſhe has ſo much in her Hands, according to the Form of the ſaid Recovery, if, &c. And now here at this Day came the ſaid *R.* by *L. R.* his Attorney, and offered himſelf on the Fourth Day againſt the ſaid *A.* in the Plea aforeſaid, and ſhe being ſolemnly demanded came not; And the Sheriff now returns that ſhe has nothing, &c. nor is ſhe found, &c. Therefore, *as before*, the Sheriff was commanded, that by good, &c. he ſhould make known to the ſaid *A.* that ſhe ſhould be here at this Day, *to wit*, on the [*the Return*] to ſhew in Form aforeſaid; At which Day came the ſaid *R.* by his ſaid Attorney; And hereupon the ſaid *A.* on the Fourth Day of the Plea being ſolemnly demanded came not; And the Sheriff, *as before*, returns that ſhe has nothing, &c. nor is ſhe found, &c. and upon this the ſaid *R.* ſays, that after the Judgment aforeſaid rendered the ſaid *P.* died inteſtate, and that Adminiſtration of the Goods and Chattels which were of the ſaid *P.* at the Time of his Death, after the Death of the ſaid *P.* was committed to the ſaid *A.* at *Southwark* aforeſaid; And the ſaid *R.* prays Execution againſt the ſaid *A.* of the Damages aforeſaid, of the Goods and Chattels which

Return Nihil.

Alias Sci. Fa'.

Return Nihil.

which were of the ſaid *P.* at the Time of his Death, being in the Hands of the ſaid *A.* to be adminiſtered, if ſhe has ſo much thereof in her Hands. It is therefore conſidered that the ſaid *R.* have Execution againſt the ſaid *A.* of the Damages aforeſaid, of the Goods and Chattels which were of the ſaid *P.* at the Time of his Death, in the Hands of the ſaid *A.* to be adminiſtered, if ſhe has ſo much thereof in her Hands, *&c.* by the Default of the ſaid *A. &c.* *Judgment.*

London, *to wit*, The Sheriffs were commanded. Whereas *R. F.* [*as before, to*] *Yet* Execution of the ſaid Judgment ſtill remains to be made, and the ſaid *T.* is dead, as on the Information of the ſaid *R.* the King has been inform'd; And becauſe, *&c.* that by good, *&c.* they make known to *A. J.* Widow, and *M. J.* Executors of the Teſtament of the ſaid *T.* that they be here at this Day, *to wit*, from the Day of *Eaſter* in Fifteen Days, to ſhew if any Thing, *&c.* why the ſaid *R.* ought not to have Execution againſt them of the Debt and Damages aforeſaid, of the Goods and Chattels of the ſaid *T. J.* at the Time of his Death, in their Hands to be adminiſtered, according to the Form of the ſaid Recovery, if, *&c.* And now here at this Day came the ſaid *R.* by *W. E.* his Attorney; And the ſaid *A.* and *M.* on the Fourth Day of the Plea being ſolemnly demanded, came not; And the Sheriffs now return, that *Entry of a* Scire Facias *in Debt againſt Executors, and two* Nihils *return'd.*

that the ſaid *A.* and *M.* have nothing, *&c.* nor are they found, *&c.* Therefore, *as before*, the Sheriffs are commanded, that by good, *&c.* he make known to the ſaid *A.* and *M.* that they be here from the Day of *Eaſter* in Five Weeks to ſhew in Form aforeſaid; At which Day here came as well the ſaid *R.* by his Attorney aforeſaid, as the ſaid *A.* and *M.* by *F. K.* their Attorney; And the Sheriff now returns that they have nothing, *&c.* nor are they found, *&c. ut antea.*

Where one Sci. Fa. *returned* Nihil *is ſufficient.*

In caſe of the Death of either Party Judgment muſt be revived by *Scire Facias.* In caſe of the Death of the Defendant you muſt have a *Scire Feci* or two *Nihils* return'd; but in caſe of the Plaintiff's Death one *Nihil* is ſufficient.

Where if Plt. or Deſt. dies after Interlocutory, and before final Judgment, Proceedings may be revived by Scire Facias.

In all Actions in this Court, if any Plaintiff ſhall happen to die after any interlocutory Judgment, and before final Judgment, the Action ſhall not abate if ſuch Action might be originally maintained by the Executors or Adminiſtrators of ſuch Plaintiff; and if the Defendant die after interlocutory Judgment, and before final Judgment, the Action ſhall not abate, if ſuch Action might be originally proſecuted againſt the Executors or Adminiſtrators of ſuch Defendant; and the Plaintiff, or his Executors or Adminiſtrators ſhall have a *Scire Facias* againſt the Defendant, his Executors or his Adminiſtrators, to ſhew Cauſe why Damages in ſuch

ſuch Action ſhould not be aſſeſſed and recovered; and if ſuch Defendant, *&c.* ſhall appear at the Return of ſuch Writ, and not alledge Matter ſufficient to arreſt the final Judgment, or (being return'd warned, or upon two Writs of *Scire Facias* it be returned, that the Defendant, *&c.* had nothing, *&c.*) ſhall make Default, a Writ of Inquiry ſhall be awarded, which being executed and returned, final Judgment ſhall be given. *Stat.* 8 & 9 *W.* 3. *c.* 9. *ſ.* 6, 15.

A Scire Facias *where the Plt. died after interlocutory Judgment, and before final Judgment.*

GEORGE the Second, *&c.* To the Sheriffs of *London*, Greeting. Whereas *G. K.* in his Life-time, lately in our Court, *to wit*, in the Term of *Eaſter* in the Tenth Year of our Reign, before Sir *John Willes*, Knight, and his Companions, then our Juſtices of the Bench at *Weſtminſter*, by our Writ had impleaded *M. G.* late of *London*, Widow, declaring in the ſame Plea againſt her, That whereas the ſaid *M.* [*ſetting forth the whole Declaration to*] And thereof he brought Suit, *&c.* And it was proceeded in our ſame Court in ſuch Manner, that in the Term of the Holy *Trinity* in the Tenth and Eleventh Years of our Reign, by the ſame Court it was conſidered, that the aforeſaid *G.* ought to have recovered his Damages againſt the ſaid *M.* occaſioned by not performing the Promiſes and Undertakings aforeſaid. But becauſe it was not known what Damages the ſaid *G.* has ſuſtained on occaſion of not

Recital of the interlocutory Judgment.

performing the Promiſes and Undertakings aforeſaid; Therefore the Sheriffs of *London* were commanded, that by the Oath of good and lawful Men of their Bailiwick they ſhould diligently inquire, what Damages the ſaid *G.* had ſuſtained, as well on occaſion of the not performing the Promiſes and Undertakings aforeſaid, as for his Coſts and Charges by him about his Suit in that Behalf laid out; and the Inquiry which the Sheriffs ſhould thereof make, they ſhould make manifeſt to our Juſtices at *Weſtminſter* aforeſaid, from the Day of St. *Michael* in Three Weeks then next following, under the Seal, *&c.* and the Seals, *&c.* as by the Record and Proceſs thereof remaining in our ſame Court, *to wit*, at *Weſtminſter* aforeſaid, may plainly appear. The Inquiry nevertheleſs of the Damages aforeſaid yet remains to be made; And the aforeſaid *G.* at *London* aforeſaid made his laſt Will and Teſtament in Writing, and thereby conſtituted and appointed *E. K.* his Wife ſole Executrix thereof; and afterwards, and after the Judgment aforeſaid given at *London* aforeſaid died, after whoſe Death the ſaid *G.* proved the ſaid Will in due Form of Law, and took the Burthen of the Execution of that Will upon her, as by the Letters Teſtamentary thereof here in Court by the ſaid *E.* produced to our Juſtices ſufficiently appears; And becauſe we will thoſe Things which in our ſame Court are rightly acted be duly

And Award of Inquiry.

Death of Plt. Executrix proves his Will.

Profert.

duly carried into Execution, We command you, that by good and lawful Men of your Bailiwick you make known to the said *M.* that she be before our Justices at *Westminster* on the Morrow of St. *Martin*, to shew if she hath, or knoweth any Thing to say for herself, why the Damages aforesaid by him the said *G.* on occasion of not performing the Promises and Undertakings aforesaid, in the Action aforesaid sustained, should not be assessed and adjudged to the said *E.* according to the Form of the Statute in this Case lately made and provided, if to her it shall seem expedient; And have you there the Names of those by whom you shall make it known to her, and this Writ. Witness Sir *John Willes*, Knight, at *Westminster*, the Twentieth Day of *October* in the Eleventh Year of our Reign. Sci. Fa'.

If a *Nihil* be returned, according to the above Statute, an *Alias Scire Facias* must issue; you must enter them *verbatim* in the Prothonotary's Remembrance Roll, and give a Rule.

London, *to wit*, The Sheriffs were commanded, Whereas *G. K.* lately in the Court of our Lord the now King, *to wit*, in *Easter* Term the Tenth Year of the Reign of our said Lord the King, before Sir *John Willes*, Knight, and his Companions, then Justices of our said Lord the King of the Bench here, *to wit*, at *Westminster*, by *Entry of the above* Scire Facias. *First* Scire Facias *Roll.*

the Writ of our ſaid Lord the King, had impleaded *M. G.* late of *London*, Widow, declaring in the ſame Plea againſt her, That whereas [*ſetting forth the whole Declaration, as in the* Sci. Fa.] And it was proceeded in the ſame Court of our ſaid Lord the King in ſuch Manner, that in the Term of the Holy *Trinity* in the Tenth and Eleventh Years of the Reign of our ſaid Lord the King, by the ſame Court it was conſidered, that the aforeſaid *G.* ought to have recovered his Damages againſt the ſaid *M.* occaſioned by not performing the Promiſes and Undertakings aforeſaid; But becauſe it was not known what Damages the ſaid *G.* had ſuſtained on occaſion of not performing the ſaid Promiſes and Undertakings, therefore the then Sheriffs were commanded, that by the Oath of good and lawful Men of their Bailiwick they ſhould diligently inquire what Damages the ſaid *G.* had ſuſtained, as well on occaſion of the not performing the Promiſes and Undertakings aforeſaid, as for his Coſts and Charges by him about his Suit in that Behalf laid out; and the Inquiry which the Sheriffs ſhould thereof make, they ſhould make manifeſt to the Juſtices of our ſaid Lord the King, *to wit*, at *Weſtminſter* aforeſaid, from the Day of Saint *Michael* in Three Weeks then next following, under the Seal, *&c.* and the Seals, *&c.* as by the Record, and Proceſs thereof in the ſame Court of our ſaid Lord the King here,

here, *to wit*, at *Weſtminſter* aforeſaid remaining, may plainly appear. The Inquiry nevertheleſs of the Damages aforeſaid yet remains to be made, and the ſaid *G.* at *London* aforeſaid made his laſt Will and Teſtament, and thereby conſtituted and appointed *E. K.* his Wife, ſole Executrix thereof; and afterwards, and after the Judgment aforeſaid given at *London* aforeſaid died, after whoſe Death the ſaid *E.* proved the ſaid Will in due Form of Law, and took the Burden of the Execution of that Will upon her, as by the Letters Teſtamentary thereof here, *to wit*, at *Weſtminſter* aforeſaid, by the ſaid *E.* produced to the ſaid Juſtices of our ſaid Lord the King ſufficiently appears. And becauſe, *&c.* that by good, *&c.* the ſaid Sheriffs ſhould make known to the ſaid *M.* that ſhe ſhould be here at this Day, *to wit*, on the Morrow of St. *Martin*, to ſhew if any Thing, *&c.* why the Damages aforeſaid, by him the ſaid *G.* on occaſion of not performing the Promiſes and Undertakings aforeſaid, in the Action aforeſaid ſuſtained, ſhould not be aſſeſſed and adjudged to the ſaid *E.* according to the Form of the Statute in this Caſe lately made and provided, if, *&c.* And now here at this Day, *to wit*, on the Morrow of St. *Martin* aforeſaid, cometh the aforeſaid *E.* by *W. T.* her Attorney, and hath offered herſelf the Fourth Day againſt the ſaid *M.* in the Plea aforeſaid; And the ſaid *M.* being ſolemnly called cometh not;

Return Nihil. and the now Sheriffs do return, that ſhe hath nothing, &c. nor is to be found, &c. Therefore, as before, the Sheriffs are commanded, that by good, &c. they make known to the ſaid *M.* that ſhe be here in Eight Days of St. *Hilary*, to ſhew in Manner aforeſaid.

Second Scire Facias Roll.

London, *to wit*, Heretofore, as it appears in this ſame Term, in the Roll it is thus contained, *to wit*, London, *to wit*, The Sheriffs were commanded [*the laſt Entry* verbatim *and then go on*] At which Day here cometh the ſaid *E.* by *W. T.* her ſaid Attorney, and hath offered herſelf the Fourth Day againſt the ſaid *M.* in the Plea aforeſaid; And the ſaid *M.* being ſolemnly called cometh not; and *Return* Nihil. the Sheriffs, as before, do return, that ſhe hath nothing, &c. nor is to be found, &c. And hereupon the ſaid *E.* prayeth, That the Damages aforeſaid, by him the ſaid *G.* on occaſion of not performing the Promiſes and Undertakings aforeſaid, in the Action aforeſaid ſuſtained, may be aſſeſſed *Judgment that Damages be aſſeſſed.* and adjudged unto her; Therefore it is conſidered, that the Damages aforeſaid, by him the ſaid *G.* on occaſion of not performing the Promiſes and Undertakings aforeſaid ſuſtained, be aſſeſſed and adjudged unto the ſaid *E.* according to the Form of the Statute in that Caſe made and provided by Default; And becauſe it is ſtill unknown what Damages the ſaid *G.* hath ſuſtained by reaſon of the Premiſſes aforeſaid,

ſaid; Therefore, as before, the Sheriffs are commanded, that by the Oath of good and lawful Men of their Bailiwick, they diligently inquire what Damages the ſaid *G.* hath ſuſtained, as well by reaſon of the ſaid Premiſſes, as for his Coſts and Charges by him laid out about his Suit in that Behalf; And the Inquiſition which they ſhall thereupon make, that they make manifeſt to the Juſtices of the Lord the King here, *to wit*, at *Weſtminſter* aforeſaid, in Eight Days of the Purification of the Bleſſed *Mary*, under the Seal, *&c.* and the Seals, *&c.* At which Day here cometh the ſaid *E.* by her ſaid Attorney, and the Sheriffs, *to wit*, Sir *George Champion*, Knt. and *Robert Cater*, Eſquire, now return here a certain Inquiſition taken before them at *Guildhall* in the Pariſh of St. *Lawrence Jewry* in the Ward of *Cheap* of the ſame City, on the Fourth Day of *February* laſt paſt, by the Oath of Twelve, *&c.* by which it is found, that the ſaid *G.* by reaſon of the Premiſſes ſuſtained Damages, beſides his Coſts laid out by him about his Suit in that Behalf, to one Hundred and five Pounds, and for his Coſts and Charges aforeſaid to Twenty-ſeven Shillings and four Pence; Therefore it is conſidered, that the ſaid *E.* as Executrix aforeſaid, do recover againſt the ſaid *M.* the ſaid Damages to one Hundred and ſix Pounds ſeven Shillings and four Pence, found by the ſaid Inquiſition in Manner aforeſaid; And alſo Eleven Pounds two Shil-

Inquiry awarded.

Return of Inquiry.

Judgment, ſigned 17 April 1737.

Shillings and eight Pence adjudged by the Court here to the ſaid *E.* at her Requeſt, for the Increaſe of the Coſts and Charges aforeſaid; which ſaid Damages amount in the Whole to one Hundred ſeventeen Pounds and ten Shillings; And the ſaid *M.* in Mercy, &c. —— *H.* 11 *G.* 2. *Ro.* 341.

Mercy.

Entry of Scire Facias *againſt Bail.*

Note; the firſt Writ is made out by the Filacer.

Middleſex, *to wit*, The Sheriff was commanded, Whereas *J. H.* of, &c. and *S. A.* of, &c. lately, that is to ſay, in *Michaelmas* Term in the Twelfth Year of the Reign of our Sovereign Lord the now King before Sir *John Willes*, Knight, and his Companions, then our ſaid Lord the King's Juſtices of the Bench, at *Weſtminſter*, came in their proper Perſons, and acknowledged, and each of them by himſelf acknowledged, to owe to *H. D.* the Sum of one Hundred and ten Pounds, which ſaid Sum of one Hundred and ten Pounds they the ſaid *J.* and *S.* for themſelves and their Heirs willed and granted, and each of them for himſelf and his Heirs, willed and granted to be made of their, and each of their Lands and Chattels, and to be levied to the Uſe and Behoof of the ſaid *H.* And whereas *J. H.* of, &c. lately, that is to ſay, in the ſame *Michaelmas* Term in the Twelfth Year aforeſaid, in the ſaid Court of our ſaid Lord the King, before Sir *John Willes*, Knight, and his Companions, then our ſaid Lord the King's Juſtices of the Bench, at *Weſtminſter*, came in his proper Perſon and acknowledged him-

himſelf to owe to the ſaid *H. D.* the Sum of two Hundred and twenty Pounds, which ſaid Sum of two Hundred and twenty Pounds the ſaid *J. H.* for himſelf and his Heirs, willed and granted to be made of his Lands and Chattels, and to be levied to the Uſe and Behoof of the ſaid *H.* under this Condition, that if Judgment ſhould happen to be given for the ſaid *H.* againſt the ſaid *J. H.* in the ſame Court, in a certain Plea of Debt upon Demand for one Hundred and twenty-four Pounds, proſecuted in the ſame Court by the ſaid *H.* againſt the ſaid *J. H.* that then the ſaid *J. H.* would ſatisfy the ſaid *H.* his ſaid Debt and Damages on occaſion of the Detaining the ſaid Debt to be adjudged to the ſaid *H.* againſt the ſaid *J. H.* in the ſame Court in the Plea aforeſaid, or render his Body on that occaſion to the Priſon of our ſaid Lord the King of the *Fleet*; And although the ſaid *H.* afterwards, that is to ſay, in the ſame *Michaelmas* Term in the ſaid Twelfth Year of the Reign of our ſaid Lord the King, in the ſame Court, before the ſaid Sir *John Willes*, Knight, and his Companions, then our ſaid Lord the King's Juſtices of the Bench aforeſaid, by the Judgment and Conſideration of the ſame Court, recovered againſt the ſaid *J. H.* as well his ſaid Debt of one Hundred and twenty-four Pounds, as Sixteen Pounds and ten Shillings, which were adjudged to the ſaid *H.* in the ſame Court for his Damages, which he had on occaſion

of detaining that Debt, whereof the ſaid *J. H.* is convicted, as by the Record and Proceedings thereof now remaining in the ſame Court at *Weſtminſter* aforeſaid is manifeſtly apparent. Nevertheleſs the ſaid *J. H.* hath not yet ſatisfied the ſaid *H.* for his Debt and Damages aforeſaid, nor rendered his Body on that occaſion to the ſaid Priſon of the *Fleet*, according to the Form of the ſaid Recognizance, as our ſaid Lord the King has received Information from the ſaid *H.* And becauſe, *&c.* that by good, *&c.* he ſhould make known to the ſaid *J. H. J. H.* and *S.* that they be here at this Day, that is to ſay, on the Morrow of the Holy *Trinity*, to ſhew if any Thing, *&c.* that is to ſay, the ſaid *J. H.* why the ſaid one Hundred and ten Pounds by him in Form acknowledged ſhould not be made of his Lands and Chattels; And the ſaid *S.* why the ſaid one Hundred and ten Pounds by him in Form aforeſaid acknowledged ſhould not be made of his Lands and Chattels; And the ſaid *J. H.* why the ſaid two Hundred and twenty Pounds by him in Form aforeſaid acknowledged ſhould not be made of his Lands and Chattels, and levied to the Uſe and Behoof of the ſaid *H.* according to the Form of the ſaid Recognizance, if, *&c.* And now at this Day the ſaid *H.* cometh here by *L. R.* his Attorney, and offered himſelf on the Fourth Day againſt the ſaid *J. H. S.* and *J. H.* in the Plea aforeſaid; and they, tho' ſolemnly called, came not; and the Sheriff

Return Nihil

now

now returneth, that the ſaid *J. H. S.* and *J. H.* have not, nor hath any one of them any Thing, *&c.* nor are they, nor is any one of them found, *&c.* Therefore, as before, the Sheriff was commanded, that by good, *&c.* he ſhould make known to the ſaid *J. H. S.* and *J. H.* that they be here from the Day of the Holy *Trinity* in three Weeks, to ſhew in Form aforeſaid; At which Day the ſaid *H.* cometh here by his Attorney aforeſaid, and offered himſelf on the Fourth Day againſt the ſaid *J. H. S.* and *J. H.* in the Plea aforeſaid, and they, though ſolemnly called, come not; and the Sheriff, as before, now returneth, that the ſaid *J. H. S.* and *J. H.* have not, nor hath any one of them any Thing, *&c.* nor are they, nor is any one of them found, *&c.* And thereupon the ſaid *H.* prays Execution againſt the ſaid *J. H. S.* and *J. H. to wit*, againſt the ſaid *J. H.* of the ſaid one Hundred and ten Pounds, by him in Form aforeſaid acknowledged, and againſt the ſaid *S.* of the ſaid one Hundred and ten Pounds, by him in Form aforeſaid acknowledged; and againſt the ſaid *J. H.* of the ſaid two Hundred and twenty Pounds, by him in Form aforeſaid acknowledged, according to the Form of the ſaid Recognizance, to be adjudged to him, *&c.* Therefore it is conſidered, that the ſaid *H.* have Execution againſt the ſaid *J. H. S.* and *J. H.* that is to ſay, againſt the ſaid *J. H.* of the ſaid one Hundred and ten Pounds, by him in Form

Alias *award-ed.*

Judgment

Form aforeſaid acknowledged; and againſt the ſaid *S.* of the ſaid one Hundred and ten Pounds, by him in Form aforeſaid acknowledged; and againſt the ſaid *J. H.* of the ſaid two Hundred and twenty Pounds, by him in Form aforeſaid acknowledged, by Default, *&c.*

Entry of a Sci. Fa. *againſt Bail in Caſe upon a Plaint removed from the Borough Court of* Southwark.

——— *to wit*, It was commanded to the Sheriff, Whereas *W. M.* of the Pariſh of St. *Olave* in *Southwark*, Yeoman, and *T. G.* of the Pariſh of *C. &c.* heretofore, *to wit*, on the Twenty-ſeventh Day of *Sept.* in the —— Year of the Reign of our Lord the now King, before —— Knight, Chief Juſtice of our Lord the King of the Bench, at his Chamber ſituate in *Serjeants Inn* in *Chancery-Lane*, in their proper Perſons became Bail, and each of them ſeparately by himſelf became Bail for *M. M.* in the Sum of 20*l.* And the ſaid *M. M.* then and there in his proper Perſon, before the ſaid Chief Juſtice then and there undertook for himſelf in the Sum of 40*l.* that the ſaid *M.* would appear in the Court of our Lord the King here, *to wit*, at *Weſtminſter*, in his proper Perſon, or by his Attorney ſufficient in the Law, to a certain Original Writ in a Plea of Treſpaſs on the Caſe to the Damage of 20*l.* by one *H. H.* to be obtained againſt the ſaid *M.* before the Octave of St. *Hilary* then next enſuing, and in the ſame Court of our ſaid Lord the King here to be proſecuted, and to anſwer the

ſaid

ſaid *H.* in the ſaid Plea; And alſo if Judgment ſhould happen to be given in the ſaid Plea in the ſame Court of our ſaid Lord the King here for the ſaid *H.* againſt the ſaid *M.* to ſatisfy to the ſaid *H.* the Damages to be recovered or adjudged for the ſaid *H.* againſt the ſaid *M.* in the Plea aforeſaid, or that he the ſaid *M.* would render himſelf on that Occaſion to the Priſon of our Lord the King of the *Fleet*; which ſaid Sum of 20*l.* each of them the ſaid *W.* and *T.* acknowledged to be made of their Lands and Chattels, and which ſaid Sum of 40*l.* the ſaid *M.* acknowledged to be made of his Lands and Chattels, and to the Uſe and Behoof of the ſaid *H.* in Form aforeſaid to be levied, if it ſhould happen, that the ſaid *M.* ſhould make Default in any of the Premiſſes, and be lawfully convicted: Which ſaid Recognizance before the ſaid Chief Juſtice in Form aforeſaid taken and acknowledged, the ſaid Chief Juſtice afterwards, *to wit*, on the Twenty-eighth Day of *November* in the ——— Year of the Reign of our ſaid Lord the King by his own Hands delivered here into Court, to be inrolled of Record, and there it remains inrolled; and of which ſaid Plea of Treſpaſs on the Caſe, a certain Plaint was then levied before *J. R.* Knight, then Steward of the Court of our ſaid Lord the King of his Borough of *Southwark*, being in the County of *Surrey*; And that Plaint, by the Writ of our ſaid Lord the King by his Com-

command was ſent, and had here, *to wit*, at *Weſtminſter*, as by the Record thereof in the Court of our ſaid Lord the King here, *to wit*, at *Weſtminſter* aforeſaid remaining manifeſtly appears; And the ſaid *H.* by the Name of *H. P.* afterwards, and before the ſaid Octave of St. *Hilary* next enſuing the ſaid Twenty-eighth Day of *Sept.* aforeſaid in the ——— Year aforeſaid, *to wit*, on the Sixth Day of *November* in the ſaid ——— Year of the Reign of our ſaid Lord the King obtained a certain Original Writ in a Plea of Treſpaſs on the Caſe, to the Damage of Twenty Pounds out of the Court of *Chancery* of our ſaid Lord the King, directed to the then Sheriffs of *London*, returnable and returned before the Juſtices of our Lord the King here, *to wit*, at *Weſtminſter* aforeſaid, from the Day of St. *Martin* in Fifteen Days then next enſuing againſt the ſaid *M.* by the Name of *M. M.* of *S.* in the County of *Surrey* Victualler, to which ſaid Original Writ the ſaid *M.* by *J. O.* his Attorney, appeared according to the Form of the ſaid Recognizance; And alſo although the ſaid *H.* afterwards, *to wit*, in the Term of St. *Hilary* laſt paſt, in the ſame Court of our ſaid Lord the King here, *to wit*, at *Weſtminſter* aforeſaid, before ——— Knight, and his Companions, then Juſtices of our Lord the King of the Bench here, in and upon the ſaid Plea recovered againſt the ſaid *M.* Nineteen Pounds which were adjudged to the ſaid *H.* in the ſame Court of

our

our ſaid Lord the King here, *to wit*, at *Weſtminſter* aforeſaid, for his Damages which he had ſuſtained by occaſion of the not performing certain Promiſes and Undertakings to the ſaid *H.* by the ſaid *M.* made at *London*, whereof he is convicted, as by the Record and Proceedings thereof in the ſame Court of our ſaid Lord the King here, *to wit*, at *Weſtminſter* aforeſaid, likewiſe remaining alſo manifeſtly appears; *Yet* the ſaid *M.* has not yet ſatisfied the ſaid *H.* for the Damages aforeſaid, nor rendered his Body on that Occaſion to the Priſon of our ſaid Lord the King of the *Fleet*, according to the Form of the ſaid Recognizance, as the King is given to underſtand from the Information of the ſaid *H.* And becauſe, *&c.* that by good, *&c.* he make known to the ſaid *W. T.* and *M.* that they be here at this Day, *to wit*, from the Day of *Eaſter* in Five Weeks, to ſhew if any Thing, *&c. to wit*, why the ſaid Twenty Pounds by the ſaid *W.* in Form aforeſaid acknowledged, ſhould not be made of his Lands and Chattels; And why the ſaid Twenty Pounds, by the ſaid *T.* in Form aforeſaid acknowledged, ſhould not be made of his Lands and Chattels; And alſo why the ſaid Forty Pounds, by the ſaid *M.* in Form aforeſaid acknowledged, ſhould not be made of his Lands and Chattels, and be rendered to the ſaid *H.* according to the Form of the ſaid Recognizance, if, *&c.* And now here at this Day came the ſaid

ſaid *H.* by *H. V.* his Attorney, and offered himſelf on the Fourth Day againſt the ſaid *W. T.* and *M.* in the Plea aforeſaid; And they being ſolemnly demanded came not; And the Sheriff now returns that the ſaid *W. T.* and *M.* have nothing, nor has either of them any Thing, *&c.* nor are they, nor is either of them found, *&c.* Therefore, as before, the Sheriff is commanded, that by good, *&c.* he make known to the ſaid *W. T.* and *M.* that they be here on the Morrow of the Holy Trinity, to ſhew in Form aforeſaid, *&c.* At which Day here came as well the ſaid *H.* by *M.* his Attorney aforeſaid, as the ſaid *W. T.* and *M.* by *J. O.* their Attorney; And the Sheriff, as before, returns, that they have nothing, nor has either of them any Thing, *&c.* nor are they, nor is either of them found, *&c.* And upon this the ſaid *H.* prays Execution againſt the ſaid *W. T.* and *M. to wit*, againſt the ſaid *W.* of the ſaid Twenty Pounds by him in Form aforeſaid acknowledged; and againſt the ſaid *T.* of the ſaid Twenty Pounds by him in Form aforeſaid acknowledged; and alſo againſt the ſaid *M.* of the ſaid 40*l.* by him in Form aforeſaid acknowledged, according to the Form of the ſaid Recovery to be adjudged to him, *&c.*

Return Nihil.

Alias *awarded.*

Defts. appear.

Return Nihil.

Plea *Nul tiel Record Recuperationis* and Iſſue, *Officina Brevium*, *fol.* 280.

GEORGE

Sci. Fa. *againſt Bail on a* Habeas Corpus *upon a Recognizance taken before a Commiſſioner, Deſt. in Perſon.*

GEORGE, &c. To the Sheriff of *Middleſex*, Greeting. Whereas *S. N.* of the City of *Coventry* in the County of the ſame City, Cordwainer, and *J. S.* of the ſame City in the County of the ſame City, Farrier, heretofore, *to wit*, on the Fourth Day of *May* in the ——— Year, *&c.* before *S. W.* Eſq; one of the Commiſſioners, by our Juſtices at *Weſtminſter* appointed, according to the Form of the Statute in this Caſe lately made and provided became Bail, and each of them became Bail for *J. F.* in the Sum of Fifty Pounds; And whereas the ſaid *J. F.* on the ſame Fourth Day of *May* in the——Year of, *&c.* aforeſaid, before the ſame Commiſſioner acknowledged, that he owed to *B. C.* the Sum of one Hundred Pounds; Which ſaid Sum of Fifty Pounds the ſaid *S.* and *J.* acknowledged, and each of them acknowledged to be made of their, and each of their Lands and Chattels; and which ſaid Sum of one Hundred Pounds the ſaid *J. S.* acknowledged to be made of his Lands and Chattels, and levied to the Uſe and Behoof of the ſaid *B.* upon this Condition, that the ſaid *J. F.* ſhould appear in our Court before our Juſtices at *Weſtminſter*, at the Suit of the ſaid *B.* in a certain Plea of Treſpaſs and Aſſault, to the Damage of Fifty Pounds; And if in our ſame Court Judgment ſhould happen to be given in the ſame Plea for the ſaid *B.* againſt the ſaid *J. F.* then the ſaid *J.* Stat. 4 W. & M. c. 4.

F. ſhould ſatisfy all the Damages which ſhould be adjudged to the ſaid *B.* in our ſame Court in the Plea aforeſaid, or render his Body on that Occaſion to the Priſon of the *Fleet*, as by the Record and Proceedings thereof remaining in our ſame Court manifeſtly appears. And although the ſaid *B.* in the Term of *Eaſter* in the —— Year of, *&c.* before ———— Knight, and his Companions, our Juſtices of the Bench at *Weſtminſter*, by the Conſideration of the ſame Court had recovered againſt the ſaid *J. F.* Nineteen Pounds, which in our ſame Court were adjudged to the ſaid *B.* for his Damages which he had by occaſion of the ſaid Treſpaſs and Aſſault whereof the ſaid *J. F.* is convicted, as by the Record and Proceedings thereof in our ſame Court alſo remaining manifeſtly appears; *Yet* the ſaid *J. F.* has not ſatisfied the ſaid Damages to the ſaid *B.* nor rendered his Body on that Occaſion to the ſaid Priſon of the *Fleet*, according to the Form of the ſaid Recognizance, as from the Information of the ſaid *B.* we have been given to underſtand. And becauſe we will that thoſe Things, which in our ſaid Court are rightly acted and acknowledged, be brought to a due Execution, We command you, that by good and lawful Men of your Bailiwick you make known to the ſaid *S. J. S.* and *J. F.* that they be before our Juſtices at *Weſtminſter* on [*the Return*] to ſhew if any Thing they have, or

know to ſay for themſelves, *to wit*, to the ſaid *S.* why the ſaid Fifty Pounds by him in Form aforeſaid acknowledged ought not to be made of his Lands and Chattels; to the ſaid *J. S.* why the ſaid Fifty Pounds by him in Form aforeſaid acknowledged ſhould not be made of his Lands and Chattels; and to the ſaid *J. T.* why the ſaid one Hundred Pounds by him in Form aforeſaid acknowledged ſhould not be made of his Lands and Chattels, and be levied to the Uſe and Behoof of the ſaid *B.* according to the Form of the ſaid Recognizance, if it ſhall ſeem expedient to him; And have there the Names of them by whom you ſhall make known to them, and this Writ. Witneſs, *&c.*

Intrat. Scire Fieri & Inquir'.

Award of Fi. Fa. *in Debt for Executors againſt an Executrix.*

Cambridge, *to wit*, The Sheriff was commanded, that of the Goods and Chattels which were of *Henry Cromwell*, Eſq; deceaſed, lately called *Henry Cromwell* of *Wicken* in the County of *Cambridge*, Eſq; in the Hands of *Elizabeth Cromwell* late of *Spunny* in the County aforeſaid, Widow, Executrix of the Teſtament of the ſaid *Henry* to be adminiſtered, being in his Bailiwick, he ſhould cauſe to be made as well a certain Debt of two Hundred Pounds, which *Chriſtopher Wynne*, Eſq; and *Sarah* his Wife, *Thomas Percival*, Gentleman, and *Mary* his Wife, and *Thomas Balls*, Gentleman, which ſaid *Sarah*, *Mary*, and *Thomas Balls*, were Executors of the Teſtament of *George Balls*, Gentle-

man, deceaſed, in the Court of our Lord *Charles* the Second, late King of *England*, before the Juſtices of the ſaid late King at *Weſtminſter*, recovered againſt the ſaid *Elizabeth*, as Forty Shillings, which in the ſame Court of the ſaid late King were adjudged to the ſame *Chriſtopher* and *Sarah*, *Thomas* and *Mary*, and *Thomas*, for their Damages which they had by occaſion of the detaining that Debt, to be levied of the ſame Goods and Chattels, if the ſaid *Elizabeth* had ſo much thereof in her Hands to be adminiſter'd; and if ſhe had not, then the ſaid Damages to be levied of the proper Goods and Chattels of the ſaid *Elizabeth*; and that he ſhould have that Money here from the Day of the Holy *Trinity* in Three Weeks, to render to the ſaid *Chriſtopher* and *Sarah*, *Thomas* and *Mary*, and *Thomas*, for the Debt and Damages aforeſaid, whereof the ſaid *Elizabeth* is convicted. And now here at this Day came the ſaid *Chriſtopher* and *Sarah*, *Thomas* and *Mary*, and *Thomas*, by *Richard Pupplet* their Attorney; And the Sheriff now returns, that he, by Virtue of the ſaid Writ to him directed, had cauſed the ſaid Forty Shillings, being the Damages aforeſaid, to be made of the proper Goods and Chattels of the ſaid *Elizabeth*, which ſaid Forty Shillings he has here at this Day to render to the *Chriſtopher* and *Sarah*, *Thomas* and *Mary*, and *Thomas*, for the Damages aforeſaid; And the ſaid Sheriff further returns to the Juſtices here, that there

De bonis Teſtatoris ſi, &c.

Si non, &c. Damna de bonis propriis.

Return. *Damages levied* de bonis propriis.

Nulla bona Teſtatoris.

there are no Goods or Chattels in his Bailiwick which were of the ſaid *Henry*, in the Hands of the ſaid *Elizabeth* to be adminiſtered, whereof he could cauſe to be made the ſaid Debt and Damages, or any Part thereof; And becauſe the ſaid Return is conceived to be made in Delay of the Execution of the ſaid Judgment as to the Debt aforeſaid; and it is teſtified in the ſame Court of the King here, on the Behalf of the ſaid *Chriſtopher* and *Sarah*, *Thomas* and *Mary*, and *Thomas*, that the ſaid *Elizabeth* has ſold, eloined, waſted, converted and diſpoſed to her own proper Uſe diverſe Goods and Chattels which were of the ſaid *Henry* at the Time of his Death, and have come to the Hands of the ſaid *Elizabeth* to be adminiſter'd, to the Value of the Debt aforeſaid, to the Intent that Execution of the ſaid Debt might not be thereof made; and our ſaid Lord the King being unwilling that thoſe Things, which in the ſame Court of the ſaid late King were rightly acted and adjudged, ſhould be rendered void by Art or Deceit; Therefore the Sheriff is commanded, that of the Goods and Chattels which were of the ſaid *Henry* at the Time of his Death in the Hands of the ſaid *Elizabeth* to be adminiſtered, being in his Bailiwick, he ſhould cauſe to be made the ſaid Debt, if it may be thereof levied, and have the Money thereof levied here, on [*the Return*] to render to the ſaid *Chriſtopher* and *Sarah*, *Thomas* and *Mary*, and *Thomas*, for the Debt aforeſaid;

Devaſtavit *ſuggeſted.*

Fieri Facias pro debito *awarded.*

Si Debit. levari non poſſit tunc ſi conſtat per Inquiſitionem quod Def. devaſt'.

ſaid; And if the ſaid Debt cannot be levied in Form aforeſaid, then if it can appear to the ſame Sheriff by Inquiſition on that Behalf to be taken, upon the Oath of good and lawful Men of his Bailiwick, or by any other Method whereby he may be the better certified thereof, that the ſaid *Elizabeth* has ſold, eloined, waſted or converted, and diſpoſed to her own Uſe, Goods and Chattels which were of the ſaid *Henry* at the Time of his Death, and have come to the Hands of the ſaid *Elizabeth* to be adminiſter'd, then by good, *&c.* he ſhould make known to the ſaid *Elizabeth*, that ſhe be here at the Time aforeſaid, to ſhew, if, *&c.* why the ſaid *Chriſtopher* and *Sarah*, *Thomas* and *Mary*, and *Thomas*, ought not to have Execution againſt her of the Debt aforeſaid, to be levied of the proper Goods and Chattels of the ſaid *Elizabeth*, according to the Form of the ſaid Recovery, if, *&c.*

Sci. Fa'.

Clift's *Entr.* 662.

Notice of executing Sci' fier. Inquir'.

Like Notice muſt be given of executing a *Scire Fieri & Inquir.* as is given of Trial, or of executing a Writ of Inquiry of Damages.

Declaration on a Scire Facias *upon a Judgment recovered in the late K.'s Reign againſt the Deft. and his Wife (ſince deceaſed) Executrix.*

Cooke.

Hilary —— George *the Second.*

Middleſex, *to wit*, IT was commanded to the Sheriff, Whereas *W. F.* Eſq; in the Court of our late Sovereign Lord *George* the Firſt, late King of *Great Britain*,

tain, &c. *to wit*, in *Eaſter* Term in the Eleventh Year of the Reign of the ſaid late King, before Sir *Peter King*, Knight, and his Companions, then the ſaid late King's Juſtices of the Bench at *Weſtminſter*, by the Conſideration of the ſaid Court had recovered againſt *C. M.* late of *Weſtminſter* in the County of *Middleſex*, Eſq; and the Lady *E. M.* his Wife, Executrix of the laſt Will and Teſtament of *C.* Lord *M.* her late Husband deceaſed, lately called *C.* Lord *M.* as well a certain Debt of three Hundred and ninety-one Pounds, as Fifty Shillings, which in the ſaid Court of the ſaid late King were adjudged to the ſaid *W.* for his Damages by occaſion of the Detaining that Debt to be levied of the Goods and Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death in the Hands of the ſaid *C. M.* and Lady *E. M.* to be adminiſter'd, if they had ſo much in their Hands; and if they had not, then the Damages aforeſaid to be levied of the proper Goods and Chattels of the ſaid *C. M.* and Lady *E. M.* whereof they were convicted, as by the Records and Proceedings thereupon in the Court of our Lord the preſent King now here remaining manifeſtly appears; *Yet* Execution of the ſaid Judgment ſtill remains to be done, and the ſaid Lady *E. M.* is dead, as the King has heard from the Information of the ſaid *W.* And becauſe, &c. by good, &c. he ſhould make known to the aforeſaid *C. M.* Adminiſtrator of the Goods and Chat-

Death of the Wife.

Deft. Adminiſtrator of his Wife, and Adminiſtrator de bonis non, &c. *of her Teſtator.*

Chattels which were of the ſaid Lady *E. M.* and Adminiſtrator, with the Will of the ſaid *C.* Lord *M.* annexed, of the Goods and Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death, unadminiſter'd by the ſaid Lady *E. M.* that he ſhould be here at this Day, *to wit*, on the Octave of the Purification of the Bleſſed *Mary*, to ſhew if any Thing, *&c.* why the the ſaid *W.* ought not to have Execution againſt him of the Debt and Damages aforeſaid, of the Goods and Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death, being in the Hands of the ſaid *C. M.* to be adminiſter'd, according to the Form of the Recovery aforeſaid, if, *&c.* And now here at this Day comes as well the ſaid *W.* by *F. P.* his Attorney, as the ſaid *C. M.* ſummoned, *&c.* by *J. S.* his Attorney; And the Sheriff, *to wit*, *J. R.* Eſq; and *T. C.* Eſq; now return, that he, by Virtue of the ſaid Writ to him directed by *R. H.* and *S. W.* good, *&c.* had made known to the ſaid *C. M.* that he ſhould be here at this Day to ſhew in Form aforeſaid, *&c.* And upon this the ſaid *W.* prays Execution to be adjudged to him againſt the ſaid *C. M.* of the Debt and Damages aforeſaid, to be levied of the Goods and Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death not adminiſtered by the ſaid Lady *E. M.* in the Hands of the ſaid *C. M.*

Plea.
No Aſſets come to Hands.

And the ſaid *C. M.* by *J. S.* his Attorney comes and ſays, that the ſaid *W.* ought

ought not to have his Execution againſt him of the Debt and Damages aforeſaid, of the Goods and Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death, becauſe he ſays no Goods or Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death not adminiſter'd by the ſaid Lady *E. M.* at the Time of the Death of the ſaid *E.* or at any Time afterwards, have come to the Hands of the ſaid *C. M.* to be adminiſter'd; and that he the ſaid *C. M.* has not, nor on the Day of ſuing forth the ſaid Writ, nor at any Time afterwards, had any Goods or Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death in the Hands of him the ſaid *C. M.* to be adminiſter'd, whereof he could have ſatisfied the ſaid *W.* of the Debt and Damages aforeſaid, or any Parcel thereof: And this he is ready to verify: Wherefore he prays Judgment, If the ſaid *W.* ought to have his Execution againſt him of the Debt and Damages aforeſaid of the Goods and Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death.

Replication. Aſſets come to Hands.

And the ſaid *W.* ſays, that he by any Thing before alledged ought not to be barred from having his Execution againſt the ſaid *C. M.* for the Debt and Damages aforeſaid, of the Goods and Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death, becauſe, he ſays, that the ſaid Writ of the ſaid *W.* was ſued forth on the Twenty-fourth Day of *Ja-*

nuary in the Year of His preſent Majeſty's Reign; and that the ſaid *C. M.* on the ſaid Day of ſuing forth the ſaid Writ had diverſe Goods and Chattels which were of the ſaid *C.* Lord *M.* at the Time of his Death in the Hands of the ſaid *C. M.* to be adminiſter'd, to the Value of the Debt and Damages aforeſaid, wherewith he could have ſatisfied the ſaid *W.* for the Debt and Damages aforeſaid, *to wit*, at *Weſtminſter* aforeſaid; And this he prays may be inquired of by the County.

Thomſon.

Michaelmas —— George *the Second.*

Declaration on a Sci. Fa. *upon a Judgment for Aſſets* in futuro *againſt an Executrix.*

London, *to wit*, IT was commanded to the Sheriffs, Whereas *M. G.* Widow, and *N. V.* lately in the Court of our Lord the preſent King here, before the Juſtices of our ſaid Lord the King of the Bench here, *to wit*, at *Weſtminſter*, by the Judgment of the ſaid Court had recovered againſt *K. M.* late of *London*, Widow, Executrix of the laſt Will and Teſtament of *H. M.* late of *London*, Eſq; her late Husband deceaſed, one Thouſand four Hundred and Eighty Pounds for their Damages which they had ſuſtained, as well by occaſion of the not performing certain Promiſes and Undertakings made by the ſaid *H.* in his Life-time to the ſaid *M.* and *N.* at *London*, *to wit*, in the Pariſh of Saint *Mary*

Mary le Bow in the Ward of *Cheap*, as for their Coſts and Charges by them the ſaid *M.* and *N.* about their Suit in that Behalf expended, adjudged to the ſaid *M.* and *N.* by the ſaid Court of our ſaid Lord the King, before the Juſtices of our ſaid Lord the King at *Weſtminſter*, to be levied of the Goods and Chattels which were of the ſaid *H.* at the Time of his Death, which after the giving the ſaid Judgment ſhould come to the Hands of the ſaid *K.* to be adminiſter'd, whereof ſhe was convicted, as by the Record and Proceedings thereupon remaining in the ſaid Court of our ſaid Lord the King before the Juſtices of our ſaid Lord the King here, *to wit*, at *Weſtminſter* aforeſaid manifeſtly appears. *And whereas* after the ſaid Judgment was given, diverſe Goods and Chattels which were of the ſaid *H.* at the Time of his Death, to the Value of the Damages aforeſaid and above, have come to the Hands of the ſaid *K.* to be adminiſter'd, out of which ſhe could have ſatisfied the ſaid *M.* and *H.* of their Damages aforeſaid, as the King has been given to underſtand by the Information of the ſaid *M.* and *N.* And becauſe, *&c.* that by good, *&c.* they ſhould give Notice to the aforeſaid *K.* that ſhe might be here at this Day, *to wit*, on the Morrow of St. *Martin*, to ſhew if any Thing, *&c.* why the ſaid *M.* and *N.* ought not to have Execution againſt her of the Damages aforeſaid of the Goods and Chattels which were of the ſaid *H.* at the Time of his Death, which

Suggeſtion of Aſſets ſince come to Deft's Hands.

which after the ſaid Judgment was given have come to the Hands of the ſaid *K.* to be adminiſter'd, according to the Form and Effect of the Recovery, if, &c. And now here at this Day came as well the ſaid *M.* and *N.* by *J. H.* their Attorney, as the ſaid *K.* by *J. S.* her Attorney; and the ſaid *M.* and *N.* offered themſelves on the Fourth Day againſt the ſaid *K.* of the Plea aforeſaid; And the Sheriffs now returned, that by *J. N.* and *R. R.* good, &c. they had given Notice to the ſaid *K.* *M.* to be here at this Day, to ſhew, &c. and upon this the ſaid *M.* and *N.* pray Execution againſt the ſaid *K.* of the Damages aforeſaid, of the Goods and Chattels which were of the ſaid *H.* at the Time of his Death, which after the ſaid Judgment was given have come to the Hands of the ſaid *K.* to be adminiſter'd, to be adjudged to them, &c. Upon which the ſaid *K.* ſays, that after the ſaid Judgment was given no Goods or Chattels, which were of the ſaid *H.* at the Time of his Death, have come to the Hands of the ſaid *K.* to be adminiſter'd, whereof ſhe could have ſatisfied the ſaid *M.* and *N.* of their Damages aforeſaid, or of any Parcel thereof; And of this ſhe puts herſelf upon the Country; And the ſaid *M.* and *H.* likewiſe: Therefore the Sheriffs are commanded, that they cauſe to come here twelve, &c. by whom, &c. and who neither, &c. to recogniſe, &c. becauſe as well, &c.

Deft. appears.

Sheriffs return Scire Fec'.

Deft. pleads no Aſſets come to Hand.

Iſſue.

You

You enter the Writ of *Scire Facias* and *Alias*, if any, on the Prothonotary's Remembrance Roll, and give a Rule thereon for the Defendant to appear.

No Costs on Sci. Fa. *till Plea.*

The Plaintiff on Motion in the Treasury may quash his own *Scire Facias* without paying Costs, though the Defendant has appeared, for the Practice of the Court is, that no Costs shall be paid on Proceedings by *Scire Facias* till a Declaration be delilivered, and the Defendant has pleaded.

Term of the Judgment not necessary.

In a *Scire Facias* to revive a Judgment it is not necessary to insert the particular Term in which the Judgment was given.

At Common Law, if after Judgment the Plaintiff sued not Execution within the Year, he had no Remedy, but by an Action on the Judgment; but a *Scire Facias* in personal Actions is given by the Statute of *Westminster* 2. *c.* 45. 2 *Inst.* 469, 470. *vide Salk.* 600.

Where no Sci. Fa. *if a* Cesset Execut'.

If there be a *Cesset Executio* for a Year, the Plaintiff may within the next Year take out Execution without a *Scire Facias.*

Scire Facias *must be sued out tho' Execution stayed by Injunction.*

If the Plaintiff be delayed from taking out Execution within the Year and a Day by an Injunction out of *Chancery*, he cannot after the Injunction dissolved take out Execution, without reviving the Judgment by *Scire Facias*; but it will be no Breach of the Injunction to take out Execution within the Year, so as it be not executed, which will save the Trouble of bringing a *Scire Facias*, by continuing the Exe-

Execution on the Roll by *Vic. non miſit breve.* 6 *Mod.* 288.

Deſt. charged in Execution 4 Years after Judgment without Sci. Fa'.

Execution by Default was awarded on a *Scire Facias* upon a Judgment in Debt, and the Defendant Four Years afterwards being in the *Fleet* for another Cauſe was brought into Court by *Habeas Corpus*, where he admitting himſelf to be the ſame Perſon was committed in Execution *Moraturus quouſque* —— *Nota poſt Annum & Diem abſq; novo Scire Facias. Dyer* 214. *p.* 47.

On Death of Deft.

If a Man recovers Debt or Damages by Judgment, and the Defendant dies, no Execution lies againſt his Executor without a *Scire Facias.*

Or of Plt. Sci. Fa. *muſt iſſue.*

If a Man has Judgment for Debt or Damages, and dies before Execution, his Executor ſhall not have Execution, though it be within the Year, without a *Scire Facias.*

Vide antea fol. 318. Death of either Party after interlocutory Judgment, and before final Judgment.

But not on Death of one where there are many Plts. or Defts.

If there be Two Plaintiffs in a perſonal Action, and one of them dies, that ſhall not put the other to a *Scire Facias*; ſo if one of the Defendants die. *Far.* 68. *Moor* 367. *pl.* 503. *Noy* 150. 5 *Mod.* 339. but a Suggeſtion of the Death muſt be made on Record. *Salk.* 319.

Into what County Sci. Fa. *on a Judgment muſt iſſue.*

On a Judgment wherein the Action was laid in *Cumberland* a *Scire* was brought in *Weſtmorland*, and Judgment was had thereon; but that Judgment was reverſed on

on Error in the *Exchequer* Chamber, for a *Scire Facias* muſt be brought in the ſame County where the firſt Action was laid. *Hob.* 4. 3 *Cro.* 228. *& vide Tel.* 218. *S. C.* for the Diverſity between a *Scire Facias* on a Judgment, and an Action of Debt on a Judgment.

Into what County on a Recognizance.

If a Recognizance of Bail be taken before a Judge at his Chambers in *London*, and entered on Record as taken in *London*, it was reſolved by all the Prothonotaries, that the *Scire Facias* ſhould be directed to the Sheriffs of *London*, and not to the Sheriff of *Middleſex*. 5 *Mar. Brook, Lieu*, 85. though the Recognizance is not a perfect Record 'till it be entered upon the Roll; yet when it is entered, it is a Record from the firſt Acknowledgment, and binds Perſons and Lands from that Time; for it is the Acknowledgment before the Judge that gives it the Force of a Record, tho' the Inrolment be neceſſary for the Teſtification and Perpetuity of it. *Hob.* 195. But in the Caſe of *Andrews* and *Harborne* the Prothonotaries certified, that upon ſuch Recognizance the *Scire Facias* might be brought in *Middleſex*, or in *London*; and that it had uſed to be brought either in *London* or *Middleſex*. 1 *Roll. Abr.* 891. *All.* 12. So where Bail taken by Commiſſioners in the County of *York*, a *Scire Facias* lies againſt them either in the County of *York* or *Middleſex*. 2 *Lutw.* 1287. *Vide Salk.* 564, 600, 659.

Out-

Outlawry.

IN the following Actions, *viz.* Treſpaſs, Aſſault, Caſe, Covenant, Account, Debt, Detinue and Replevin, you may proceed to Outlaw a Man who is not eaſily to be Arreſted, and hath not ſufficient Eſtate in the County whereby he may be Summoned, *&c.*

Deft. ſooner Outlawed in London *than in another County.*

If the Action be laid in *London*, the Defendant will be ſooner Outlawed than in another County, in regard that between the Teſte and Return of the Exigent there muſt be Five County Days, which are held every Month, and the *Huſtings* in *London*, which anſwer the County Days, are held every Fortnight.

Of the Præcipe *for the Original.*

You cannot Outlaw a Man on Proceſs with *Acetiams*; and if your Original be only a *Clauſum Fregit*, the Defendant may reverſe the Outlawry without Bail, and therefore the beſt Way is to make out a *Præcipe* for a ſpecial Original, which is in this Form, according to the Nature of the Action.

A Præcipe *for a ſpecial Original on an* Indeb. Aſſumpſit *for the Charges of a Funeral.*

London, If *T. J.* ſhall make, *&c.* then put, *&c. C. W.* late of *New Bond-ſtreet* in the County of *Middleſex*, Upholſterer, that he be before our Juſtices, at *Weſtminſter*, on the Morrow of the Purification of the Bleſſed *Mary*, to ſhew, Wherefore whereas the ſaid *C.* on the Tenth

Day of *Auguſt* in the Year of our Lord 1738. at *London*, *to wit*, in the Pariſh of St. *Mary le Bow* in the Ward of *Cheap*, was indebted to the ſaid *T.* in 60 *l.* lawful Money of *Great Britain*, as well for Work, Labour and Care of the ſaid *T.* about the Funeral of one *R. F.* deceaſed, by the ſaid *T.* before that Time, at the ſpecial Inſtance and Requeſt of the ſaid *C.* done and performed, as for diverſe Materials and neceſſary Things, by the ſaid *T.* at the like ſpecial Inſtance and Requeſt of the ſaid *C.* at the Coſts and Charges of the ſaid *T.* on that Occaſion found and provided; and by the ſaid *T.* in and about that Funeral uſed and expended; and being ſo indebted the ſaid *C.* in Conſideration thereof afterwards, *to wit*, on the ſame Day and Year at *London* aforeſaid, in the Pariſh and Ward aforeſaid, undertook, and then and there faithfully promiſed the ſaid *T.* that he the ſaid *C.* would well and truly pay to the ſaid *T.* the ſaid 60 *l.* when he ſhould be thereunto afterwards required. *And alſo whereas* the ſaid *C.* afterwards, *to wit*, on the Day and Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, in Conſideration that the ſaid *T.* at the like ſpecial Inſtance and Requeſt of the ſaid *C.* had done and performed other Work and Labour in and about the Funeral of one *R. F.* deceaſed, and at the like ſpecial Inſtance and Requeſt of the ſaid *C.* had found and provided at the Coſts and Charges of him the ſaid

Quantum meruit *thereon.*

ſaid *T.* diverſe Materials and neceſſary Things on that Occaſion, and had expended and uſed the ſaid Materials and neceſſary Things laſt mentioned in and about the laſt mentioned Funeral, undertook, and then and there faithfully promiſed the ſaid *T.* that he the ſaid *C.* would, when he ſhould be thereunto required, well and truly pay and content to the ſaid *T.* not only all ſuch Sums of Money as the ſaid *T.* reaſonably deſerved to have for his ſaid Work and Labour laſt above mentioned, but alſo all ſuch Sums of Money, as the ſaid Materials and neceſſary Things laſt mentioned at the Time of the finding and providing thereof, as aforeſaid, were reaſonably worth; And the ſaid *T.* avers, that he reaſonably deſerved to have for his laſt mentioned Work and Labour 20*l.* of like lawful Money; and that the Materials and neceſſary Things laſt mentioned were at the Time of the finding, providing thereof as aforeſaid, reaſonably worth Forty Pounds of like lawful Money, *to wit*, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, of which the ſaid *C.* then and there had Notice. *Neverthelefs* the ſaid *C.* no Ways regarding his ſaid Promiſes and Undertakings made in Form aforeſaid, but contriving and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid *T.* in this Behalf, has not paid to the ſaid *Thomas* the ſaid ſeveral Sums of Money, or any Part thereof, nor any Ways contented him for the ſame

Breach.

(although the ſaid *C.* afterwards, *to wit*, on the Twelfth Day of *Auguſt* in the Year aforeſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, was thereunto requeſted by the ſaid *T.*) But he hath hitherto refuſed, and ſtill doth refuſe to pay the ſame to the ſaid *T.* to the Damage of the ſaid *T.* of 60*l.* as he ſays.

Returnable, *&c.*

You carry this *Præcipe* to the Curſitor of the County, who will thereupon make out an Original: If the *Præcipe* be carried to the Curſitor before the Eſſoin-Day of a Term, he will make the Original Returnable on any Return of the precedent Term, *vide antea fol.* 195. You may return the Original of Courſe thus: *Of returning the Original.*

Pledges of Proſecuting { *John Doe*, *Richard Roe.*

The within named *C. W.* has nothing in our Bailiwick by which he can be Attached [or * Summoned.]

J. B. Eſq;
and
W. W. Eſq; Sheriffs.

You muſt carry the Original thus returned to the Filacer of the County, who *Of making out the* Capias, Alias *and* Pluries,

* *Vide antea*, fol. 94, 196.

will make out a *Capias*, *Alias* and *Pluries* all together, if the Original will bear it, each of which Writs muſt have Fifteen Days between the Teſte and Return. After the *Capias*, *Alias* and *Pluries* are ſealed, you may return them ſeverally, after this Manner:

Of returning them.

The within named *C. W.* is not found in our Bailiwick.

The Anſwer of

J. B. Eſq;
and Sheriffs.
W. W. Eſq;

I apprehend the Plaintiff ought to make an Affidavit of his Debt on ſuing out the *Capias*, and endeavour to get the *Capias*, *Alias* and *Pluries* executed, if poſſible, and let them be return'd by the Sheriff.

Warrant of Attorney to be filed of the ſame Term with the Exigent.

Every Attorney ſhall file his Warrant of Attorney of the Term wherein any *Exigent* is awarded, upon Pain of 40 *s.* for every Time he offends, and is attainted by due Examination of the Juſtices of this Court; ſuch Warrant to be filed upon or before the Eſſoin-Day of every *Trinity* Term, and within one and Twenty Days after the End of every other Term. *Hil.* 14, 15 *Car.* 2.

Exigenter not to receive Pluries *before ſigned by Clerk of the Warrants.*

No Exigenter ſhall receive any *Pluries Capias* in order to make an Exigent or Proclamation thereon, before the ſame be ſigned or ſtamped by the Clerk of the Warrants, or his Deputy, to the End

it

it may appear, that the Warrant of Attorney therein is duly filed. *Hil.* 2, 3 *Jac.* 2.

Trinity *Term in the Thirteenth Year of the Reign of King* George *the Second.*

London. *T. J.* puts in his Place *L. R.* his Attoney againſt *C. W.* late of *New Bond-ſtreet* in the County of *Middleſex*, Upholſterer, in a Plea of Treſpaſs on the Caſe. *The Warrant of Attorney.*

This Warrant of Attorney being filed, for which you pay 4 *d.* the Clerk of the Warrants ſtamps the *Pluries*, which you thereupon carry to the Exigenter of the County, who will make out an Exigent and Proclamation, which you are to get ſealed, and carry to the Sheriff of the County in which you have laid the Action, and the Proclamation to the Sheriff of that County wherein the Defendant dwells at the Time of awarding the Exigent. *Exigenter, on Receipt of the* Pluries *ſtampt, to make out the Exigent and Proclamation.*

If there happen not to be Five County Days between the Teſte and Return of the Exigent, you muſt apply to the Exigenter for an *Allocatus* to bring in the Five County Days; and the like muſt be in *London* for want of *Huſtings*. *Where an* Allocatus *neceſſary.*

You may make out your Proceſs in order, and endeavour to take the Defendant on any of them.

When an Exigent is awarded, a Proclamation to be made out of the same Teste and Return.

Where any Exigent shall be awarded, a Writ of Proclamation shall be made out of the same Teste and Return as the Writ of Exigent, directed to the Sheriff of the County where the Defendant at the Time of the Exigent awarded shall be dwelling, which Writ of Proclamation shall contain the Effect of the same Action; and the Sheriff to whom the Proclamation shall be directed shall make three Proclamations, *viz.* one in open County Court, one other at the General Quarter-Sessions of the Peace in those Parts, where the Defendant at the Time of the Exigent awarded shall be dwelling; and one other one Month at least before the *Quint. Exact*, by Virtue of the Writ of Exigent, at or near the most usual Door of the Church or Chapel of that Town or Parish where the Defendant shall be dwelling at the Time of the Exigent so awarded; and if the Defendant shall be dwelling out of any Parish, then in such Place as aforesaid of the Parish next adjoining to the Defendant's Dwelling, and upon a *Sunday* immediately after Divine Service. All Outlawries pronounced, and no Proclamation awarded and returned, according to this Statute, are void. — *Stat.* 31 *Eliz. c.* 3. *s.* 1.

Sheriff to make three Proclamations.

His Fee.

The Sheriff, for making the Proclamation at or near the Church Door, shall have Twelve Pence. *Same Stat. s.* 1.

The

The Officer in whoſe Office the Exigent ſhall be taken ſhall make out the Proclamation, and ſhall take no more for making ſuch Writ of Proclamation, and entering it on Record, but only Six Pence. *Stat.* 6 *Hen.* 8. *c.* 4. §. 3, 4.

Officer who makes out the Exigent to make out the Proclamation. His Fee.

According to the Proviſion of the Statute of the 31 *Eliz.* all Attornies are to be careful that Writs of Proclamation be delivered, and the Sheriffs to take care duly to execute the ſame. *Mich.* 1654.

Attornies to be careful that Writs of Proclamation be delivered.

After the Exigent and Proclamation is returned, you file the Proclamation with the *Cuſtos Brevium*, and carry the Exigent to the Clerk of the Outlawries, who will thereupon make out a *Capias Utlagatum* either General or Special, the one againſt the Defendant's Body, the other againſt his Body, Goods and Lands, into as many Counties as you ſhall think proper either in *England* or *Wales*.

Proclamation to be filed with the Cuſtos Brevium.

Capias Utlagatum *either General or Special.*

If the Defendant appears by *Superſedeas quia improvidè*, or doth truly render himſelf upon the Exigent, no Bail is requirable. *Mich.* 1654.

If Deft. appears on the Exigent, no Bail is required.

No Sheriff, Under-Sheriff, their Deputies or Bailiffs, ſhall ſet at Liberty any Perſon arreſted upon any *Capias Utlagatum*, until he receive a *Superſedeas* according to Law from the Officer thereunto appointed. *Mich.* 1654. *Stat.* 13 *Car.* 2. *c.* 2. §. 4.

Sheriff not to diſcharge Deft. arreſted on Capias Utlagatum *without a* Superſedeas.

No Sheriff, Under-Sheriff, *&c.* ſhall ſet at Liberty any Perſon taken upon any Writ of *Capias Utlagatum*, nor diſcharge the

Lands or Goods of any Perſon outlawed, without a lawful *Superſedeas* under the Seal of the Court. *Hil.* 15, 16 *Car.* 2.

Upon Affidavit made and filed, that any Sheriff, Officer, or Bailiff, has enlarged any Perſon arreſted upon *Capias Utlagatum* before Judgment, without a lawful *Superſedeas* in that Behalf, the Perſon ſo offending ſhall pay 40 *s.* to the Party grieved, who ſhall have an Attachment of courſe againſt ſuch Sheriff, Officer, Bailiff, or Party offending, for Payment of the ſame; and the Party offending ſhall likewiſe undergo ſuch other Puniſhment as by the Court ſhall be thought fit. *Trin.* 2 *Jac.* 2.

Penalty of 40 *s.* &c.

Before the Reverſing of any Outlawry, or any *Superſedeas* made thereunto, the Defendant ſhall give ſpecial Bail, if the Sum or Damages expreſſed in the Original, whereupon the Exigent was awarded, ſhall amount to the Sum of Ten Pounds or upwards. *Hil.* 15, 16 *Car.* 2. *Trin.* 2 *Jac.* 2.

Before Superſedeas *Deft. to give Bail if the Cauſe of Action be* 10 *l. or upwards.*

Before any Allowance of any Writ of Error, or reverſing of any Outlawry be had by Plea or otherwiſe, through or by want of any Proclamation to be had or made according to this Statute, the Defendant in the original Action ſhall put in Bail, not only to appear and Anſwer the Plaintiff in the former Suit in a new Action, to be commenced for the Cauſe in the firſt Action, but alſo to ſatisfy the Condemnation if the Plaintiff ſhall begin his Suit before the End of * *two Terms* next after the Allowing the Writ of Error, or otherwiſe avoiding

Deft. to give Bail to ſatisfy the Condemnation.

ing the ſaid Outlawry. *Statute* 31 *Eliz. c.* 3. *ſ.* 3. *Mich.* 12 *Geo.* 1. the Rule ſays of * *the Term* next after, *&c.*

No Outlawry after the Death of the Plaintiff in the Action ſhall be reverſed, without the Defendant's Appearing and putting in Special Bail (if the Action requires it) to the Executor or Adminiſtrator of the Plaintiff, or to the Husband and Wife, where the Wife while a *Feme* ſole ſued the Defendant to an Outlawry before Marriage, provided that the Plaintiff's Attorney do, within Fourteen Days after Notice given of the Defendant's Intention to reverſe the Outlawry, deliver the Name of the Executor or Adminiſtrator of ſuch deceaſed Plaintiff to the proper Prothonotary. *Trin.* 2 *Jac.* 2.

Outlawry after the Death of the Plaintiff not to be reverſed without Bail to the Executor.

No Defendant, who ſhall be outlawed and ſhall appear and reverſe ſuch Outlawry, ſhall upon the Reverſal pay to the Plaintiff any Sum of Money exceeding the uſual Coſts of the Exigent, together with the Fine paid to the King upon the Original, and all further Coſts ſhall be reſpited to the Time of ſigning Judgment for the Plaintiff. *Trin.* 33 *Car.* 2.

On reverſing an Outlawry Deft. only to pay Coſts to the Exigent, and the Fine.

Further Coſts reſpited quouſque.

Upon every Writ of Exigent, if a *Superſedeas* be not put in thereto, at or before the Day of Appearance thereof, no *Superſedeas* ſhall by any Sheriff be allowed to any ſuch Writ, until the Defendant ſhall have paid unto the Plaintiff or his Attorney, or left in the Court with one of the Prothonotaries thereof the full and juſt

No Superſedeas *to the Exigent, unleſs put in before the Day of Appearance, to be allowed till Coſts paid.*

On Reverſal Deft. ſhall pay Coſts to the Exigent.

Coſts of Suit therein; and upon the Reverſal of any Outlawry the Defendant ſhall, before the Reverſal or any *Superſedeas*, pay to the Plaintiff or his Attorney, or leave in the Court for him, the full Coſts of Suit to the Exigent. And where the Sheriff ſhall have taken an Inquiſition, and extended the Goods, Chattels, *&c.* and returned the ſame into the *Exchequer*, ſuch further Coſts ſhall be taxed by the Prothonotary, and paid to the Plaintiff or his Attorney, or left in the Court for him, as the Plaintiff hath been at in proſecuting the ſaid Inquiſition, before any Certificate of the Reverſal ſhall be made by the Clerk of the Outlawries. *Trin.* 2 *Jac.* 2.

Where Inquiſition taken, &c. further Coſts to be taxed.

On making out a *Superſedeas* the Defendant need not enter an Appearance with the Exigenter; the *Superſedeas* itſelf is an Appearance. *Dyer* 233.

On reverſing an Outlawry, if Plt. proceed not in 2 Terms Deft. to have Coſts taxed.

Every Defendant who ſhall be outlawed, and cauſe the ſaid Outlawry to be reverſed, if the Plaintiff thereupon ſhall not proceed within Two Terms next after Notice of reverſing thereof, ſhall have Coſts to be taxed by the Prothonotary. *Trin.* 33 *Car.* 2.

Of Outlawing after Judgment.

A Man may be outlawed after Judgment, and that without any Writ of *Alias*, *Pluries*, or Proclamation. In this Caſe you ſue out a Writ of *Capias ad Satisfaciendum*, which muſt have Fifteen Days between the Teſte and Return; and if the Defendant cannot be taken thereon you get the Sheriff to return *Non eſt Inventus*

on

on the Writ, and then carry it to the Exigenter, who will make out a Writ of Exigent againſt the Defendant, upon the Return of which you may have a *Capias Utlagatum* either General or Special, and into as many Counties as you pleaſe either in *England* or *Wales*; and if the Defendant's Body be taken, or his Goods extended thereon, he can obtain no Diſcharge for either till he has made Satisfaction.

No Outlawry after Judgment, pending a Writ of Error.

But if a Writ of Error be brought on the Judgment, the Plaintiff cannot proceed to Outlaw the Defendant pending the Writ of Error; for though the Plaintiff may bring an Action of Debt on the Judgment pending a Writ of Error, and proceed to Judgment thereon, it has always been confined to reſtraining the Plaintiff from taking out Execution, and the Exigent being founded on the *Capias ad Satisfaciendum* is a proceeding to Execution, and therefore not juſtifiable.

It much behoves Practiſers to be cautious when they Outlaw, for if the Defendant appears publickly, and the Attorney can be affected with the Knowledge of it, the Court will, I apprehend, make him reverſe it at his own Charge, if not otherwiſe puniſh him.

Of procuring the Money levied on the Deft's Goods.

Where the Defendant's Goods are taken on the ſpecial *Capias Utlagatum*, the Sheriff, if the Plaintiff requires it, will extend and appraiſe the Goods by Inquiſition, and for that Purpoſe the Plaintiff muſt firſt have them inventoried and appraiſed by pro-

proper Perſons, to give Evidence of their Value to the Jury; if they are not worth above Forty Pounds they will hardly be worth the Plaintiff's Trouble to extend them. In *Middleſex* the Sheriff takes for the Inquiſition, as follows:

	l. *s.* *d.*	*l.* *s.* *d.*
For taking the Inquiſition, Schedule of the Goods ſeiſed and Return —— ——	——	0 18 6
To the Bailiff for Summoning the Jury —	0 4 0	
For the Uſe of the Room where the Inquiſition is taken —— ——	0 1 0	
To every Juryman 1 *s.* --	0 12 0	
	——	0 17 0
		1 15 6

It may be proper to give the Defendant Notice of taking the Inquiſition, as is done of executing a Writ of Inquiry.

If there be a Occaſion, a *Subpœna* for Witneſſes may be made out in the following Form.

GEORGE, &c. To *A. B. &c.* Greeting. We command you, and every of you, that all Excuſes being laid aſide you be in your proper Perſons before the Sheriff of our County of *Middleſex* on —— the —— Day of —— at —— of the Clock in the ——noon at the Court-Houſe at

at *Weſtminſter* [or at the *Three Tons* in *Brook-ſtreet* near *Holborn*] in the County of *Middleſex*, to teſtify and declare the Truth according to your Knowledge, upon a certain Inquiſition to be taken by the ſaid Sheriff, on the Oath of good and lawful Men of his County, purſuant to our Precept to inquire what Lands and Tenements, Goods and Chattels *W. S.* late of, *&c.* was poſſeſſed of on the ——— Day of —— in the Year of our Lord —— on which Day he was outlawed at the Suit of *R. R.* And this you, either, or any of you are not to omit, under the Penalty of one Hundred Pounds, for the Default of each of you. Witneſs, *&c.*

When the *Capias Utlagatum* is return'd with the Inquiſition annexed, it muſt be carried to the Clerk of the Outlawries, who will tranſcribe, and tranſmit it into the *Exchequer*; then a Clerk in the King's Remembrancer's Office muſt be employed, who will ſue out a Writ of *Venditioni exponas*, by Virtue of which the Sheriff will ſell the Goods. If the Money raiſed exceeds not Twenty Pounds, the Court of *Exchequer*, on Motion, will order the Money to be paid to the Plaintiff; but if the Money be above Twenty Pounds, a Petition to the following Effect muſt be preſented to the Lords of the Treaſury.

To the Right Honorable the Lords Commiſſioners of His Majeſty's Treaſury.

The humble Petition of R. R.

Sheweth,

Petition to the Lords of the Treaſury.

THAT *W. S.* late of, *&c.* being indebted to your Petitioner in the Sum of Fifty Pounds, your Petitioner did in *November* laſt, at his very great Charge, proſecute the ſaid *W. S.* to an Outlawry; and by Virtue of a ſpecial *Capias Utlagatum* directed to the Sheriff of *Middleſex*, ſeveral Goods of the ſaid *W. S.* were ſeiſed and found by Inquiſition to be of the Value of Forty-five Pounds, which Goods were afterwards ſold by the ſaid Sheriff, by Virtue of a Writ of *Venditioni exponas*, at the ſame Price and Value they were ſo appraiſed at, and the Money thereupon raiſed now remains in the Hands of the Sheriff of *Middleſex*.

That the ſaid Petitioner's ſaid Debt, and the Charge he has already been at in proſecuting the ſaid Outlawry, greatly exceed the Sum ſo remaining in the ſaid Sheriff's Hands.

Wherefore your Petitioner humbly prays your Lordſhips, That the Money ſo levied as aforeſaid may be paid over to your Petitioner.

And your Petitioner ſhall ever pray, &c.

This

This Petition the Lords of the Treaſury will refer to their Solicitor, now *Nicholas Paxton*, Eſq; The Plaintiff muſt make an Affidavit before one of the Barons of the *Exchequer*, to ſupport the Allegations in the Petition, particularly of his Debt and the Charge he has been at. This Affidavit, with the Attorney's Bill, *Venditioni exponas* and Return muſt be laid before the Solicitor of the Treaſury, who being ſatisfied of the Truth of the Petition will make a Report to their Lordſhips accordingly, and then a Warrant will iſſue to His Majeſty's Attorney General, to conſent that ſo much of the Money levied as ſhall remain in the Hands of the Sheriff, after deducting the uſual Poundage, be paid to the Plaintiff towards Satisfaction of his Debt and Coſts, on his moving the Court of *Exchequer* for an Order for that Purpoſe, this Warrant muſt be delivered to the Attorney General, who on the Plaintiff's making ſuch Motion by Counſel will conſent accordingly; and then, on producing the Order under Seal, the Sheriff will pay the Money to the Plaintiff.

The Expence out of Pocket of this Application.

	l.	*s.*	*d.*
Duty and Oath of the Affidavit	0	2	0
To the Solicitor of the Treaſury	1	1	0
To his Clerk	0	5	0

At

	l.	*s.*	*d.*
At the Treaſury, for the Reference, *&c.* Warrant and Poundage, when the Sum does not exceed 50 *l.* you pay about	3	3	0
To the Attorney General ——	2	2	0
To his Clerk —— —— ——	0	2	6
Fee to the Counſel to move ——	0	10	6
To the Clerk in the *Exchequer* according to the Length of the Proceedings, about ——	5	10	0

Of Writs of Error.

WHERE a Party apprehends himſelf grieved by the Judgment of this Court, he may remove the ſame by a Writ of Error into the *King's Bench*. This Writ is made out by the Curſitor for the County wherein the Action is laid; and is in this Form:

A Writ of Error.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To his Truſty and Well-beloved Sir *Thomas Reeve*, Knight, Chief Juſtice of the Bench, Greeting. Foraſmuch as in the Record and Proceſs, and alſo in giving of Judgment, in a Plaint which was in our Court before you and your Aſſociates, our Juſtices of the ſaid Bench, by Bill between *William Norman* and *Samuel Burrough*, Gent. one of the Attornies of our Court

of the Bench, of a certain Treſpaſs upon the Caſe done to the ſaid *William* by the ſaid *Samuel*, as it is ſaid, manifeſt Error hath intervened, to the great Damage of the ſaid *Samuel*, as by his Complaint we are informed; we willing that the ſaid Error, if any be, be duly amended, and full and ſpeedy Juſtice done to the ſaid Parties in this Behalf, do command you, that if Judgment be given thereupon, then you ſend to us diſtinctly and plainly under your Seal the Record and Proceſs of the ſaid Plaint, with all Things touching the ſame, and this Writ; ſo that we may have them on the Octave of St. *Hilary*, whereſoever we ſhall then be in *England*, that inſpecting the Record and Proceſs aforeſaid we may cauſe farther to be done thereupon for amending the ſaid Error, as of Right and according to the Law and Cuſtom of *England* ſhall be meet to be done. Witneſs *Caroline*, Queen of *Great Britain*, *&c.* Guardian of the ſame Realm, *&c.* at *Weſtminſter*, the Twenty-ſixth Day of *November* in the Tenth Year of our Reign. *Burgh.*

You pay for this Writ 13 *s.* *viz.* 2 *s.* 6 *d.* the Curſitor's Fee and Seal, and 10 *s.* 6 *d.* the King's Duty. You carry this to the Clerk of the Errors to be allowed, for which you pay 2 *l.* 2 *s.* 6 *d.* whereupon he gives you a Note directed to the Attorney of the adverſe Party, ſignifying his Allowance of the Writ, which Notice you muſt deliver accordingly. *Of allowing it.*

No

Writ of Error no Superſedeas *on any ſingle Bond for Debt, Bond conditioned for Payment of Money only, Debt for Rent, or on any Contract.*

No Execution ſhall be ſtayed upon any Writ of Error, or *Superſedeas* thereupon to be ſued for the Reverſing of any Judgment given in any Action, or Bill of Debt, upon any *ſingle Bond for Debt*, or upon any *Obligation, with Condition for the Payment of Money only*; or upon any Action or Bill of *Debt for Rent*, or upon any *Contract*, unleſs ſuch Perſon in whoſe Name ſuch Writ of Error ſhall be brought,

Unleſs Bail put in.

with two ſufficient Sureties, ſuch as the Court (wherein ſuch Judgment is given) ſhall allow of, ſhall firſt before ſuch Stay made, or *Superſedeas* awarded, be bound unto the Party for whom ſuch Judgment is given by Recognizance, to be acknowledged in the ſame Court in double the Sum adjudged to be recovered by the ſaid former Judgment, to proſecute the ſaid Writ of Error with Effect; and alſo to pay (if the ſaid Judgment be affirmed) the Debt, Damages and Coſts adjudged upon the former Judgment; and all Coſts and Damages to be awarded for the ſame delaying of Execution. *Statute* 3 *Jac.* 1. *c.* 8.

To proſecute with Effect.

Pay the Debt, &c.

And Coſts for Delay of Execution.

Writ of Error no Superſedeas *after Verdict.*

On Action on Stat. 2 E. 6. *Promiſe for Payment of Money, Trover, Covenant, Detinue and Treſpaſs.*

And no Execution ſhall be ſtayed by any Writ of Error, or *Superſedeas* thereupon, after any Verdict and Judgment thereupon obtained in any Action of *Debt*, on Statute 2 *Edw.* 6. for *not Setting forth of Tithes*, nor in any Action upon the *Caſe*, upon any *Promiſe for Payment of Money*, Action Sur *Trover*, Action of *Covenant*, *Detinue* and *Treſpaſs*, unleſs ſuch Recognizance,

nizance, and in ſuch Manner, as by the ſaid Act of the Third of *Jac.* 1. is directed, ſhall be acknowledged in the ſaid Court where ſuch Judgment is given. The Second *Stat.* 13 *Car.* 2. *c.* 2. §. 8, 9.

Unleſs Bail as aforeſaid.

And if any Perſon ſhall ſue or proſecute any Writ of Error for Reverſal of any Judgment whatſoever given *after any Verdict*, and the ſaid Judgment ſhall be affirmed, then ſuch Perſon ſhall pay unto the Defendant in the ſaid Writ of Error his double Coſts, to be aſſeſſed by the Court where the Writ of Error ſhall be depending for the Delaying of Execution. *Same Statute*, §. 10.

On Writ of Error after Verdict double Coſts if Judgment affirmed.

And no Execution ſhall be ſtayed by Writ of Error, or *Superſedeas* thereupon, after Verdict and Judgment thereupon, in any Action perſonal whatſoever, unleſs a Recognizance with Condition, according to the Statute 3 *Jac.* 1. ſhall be firſt acknowledged in the Court where the Judgment ſhall be given. In Writs of Error brought upon any Judgment after Verdict in any Writ of Dower, or in any Action of *Ejectione Firmæ*, no Execution ſhall be ſtayed, unleſs the Plaintiff in ſuch Writ of Error ſhall be bound unto the Defandant in ſuch Writ of Dower, or Action of *Ejectione Firmæ*, in ſuch reaſonable Sum as the Court, to which ſuch Writ of Error ſhall be directed, ſhall think fit with Condition, that if the Judgment ſhall be affirmed, or that the ſaid Writ of Error be diſcontinued in Default of the Plain-

Writ of Error no Superſedeas *after Verdict in any Action perſonal.*

Unleſs Bail as aforeſaid.

Nor after Verdict in Dower or Ejectment.

Unleſs Plt. in Error be bound, &c.

On Affirmance, Diſcontinuance or Nonſuit, to pay Coſts.

Plaintiff therein, or that the ſaid Plaintiff be Nonſuit in ſuch Writ of Error, that then the Plaintiff ſhall pay ſuch Coſts, Damages, and Sum and Sums of Money, as ſhall be awarded upon ſuch Judgment affirmed, Diſcontinuance or Nonſuit had. *Stat.* 16, 17 *Car.* 2. *c.* 8. §. 3.

On Affirmance, &c. Writ to inquire of the Meſne Profits, &c.

The Court, wherein ſuch Execution ought to be granted upon ſuch Affirmance, Diſcontinuance or Nonſuit, ſhall iſſue a Writ to inquire, as well of the *Meſne* Profits, as of the Damages by any Waſt committed after the firſt Judgment in Dower or *Ejectione Firmæ*; and upon the Return thereof, Judgment ſhall be given and Execution awarded for ſuch *Meſne* Profits and Damages, and alſo for Coſts of Suit. *Same Stat.* §. 4.

This Act not to extend to Executors, &c.

This Act not to extend to any Writ of Error to be brought by any Executor or Adminiſtrator, nor to any Action popular,

Penal Statutes, &c.

nor to any Action upon any penal Law or Statute (except Action of Debt for not Setting forth of Tithes) nor to any Indictment, Preſentment, Inquiſition, Information or Appeal. *Same Stat.* §. 5.

Nor Indictments, &c.

No Bail in Error on Bond for Performance of Covenants, tho' Condition did not appear on Record.

Judgment in Debt on a Bond conditioned for the Performance of Covenants, but notwithſtanding the Condition did not appear on the Record, the Court held, that the Matter of Bail being examinable by Affidavit, and the Bond being conditioned as above, Bail was not required on the Writ of Error. *Spinks* and *Bird, Mich.* 10 *Geo.* 2.

Judg-

Judgment in Debt on Bond conditioned for Payment of 300 *l.* mentioned in a Surrender in Mortgage of Copyhold Lands; Writ of Error brought, and Bail ordered. *Wood* and *Armſtrong*, *Mich.* 12 *Geo.* 2.

Bail in Error on Judgment upon Bond for Payment of Money mentioned in a Mortgage.

No Attorney ſhall make out any Execution *Non Obſtante Brevi de Errore* until he has had a Certificate from the Clerk of the Errors, that the Record is not removed, and a *Non Pros* thereupon duly ſigned. *Trin.* 28 *Car.* 2.

No Execution Non Obſtante Errore, *without Certificate of* Non Pros *ſign'd.*

All Writs of Error ſhall be forthwith delivered to the Clerk of the Errors for the Time being; and no one ſhall be obliged to forbear ſuing out Execution by Pretence of any Writ of Error, before the Writ of Error ſhall be delivered to the Clerk of the Errors. *Same Rule*, and *Mich.* 28 *Car.* 2.

Writ of Error to be delivered to the Clerk of the Errors. And till then no Stay of Execution.

And in Caſes where ſpecial Bail is required, unleſs the Plaintiff on ſuch Writ of Error ſhall, within Four Days after the Delivery thereof, put in Bail according to Law, and obtain a Writ of *Superſedeas* thereon, the Defendant may proceed to Execution notwithſtanding ſuch Writ of Error. *Mich.* 28 *Car.* 2.

Where Bail required, Bail to be put in 4 *Days.* Aliter *Execution.*

In all Caſes where Bail ſhall be filed on Writs of Error, ſuch Bail ſhall likewiſe be perfected within Four Days after Exception taken thereto; or in Default thereof the Clerk of the Errors ſhall *Non Pros* ſuch Writ of Error. *Mich.* 6 *Geo.* 2.

Bail to be perfected in 4 *Days after Exception.*

After a Writ of Error ſhall be duly allowed, and a *Superſedeas* thereupon obtained,

No Execution for not tranſcribing without Certificate.

tained, no Execution ſhall be made for not tranſcribing the Record into the *King's Bench* without a Certificate in Writing by the Clerk of the Errors, that the Plaintiff in ſuch Writ of Error made Default in tranſcribing the Record into the *King's Bench*, according to a Rule of Court to be firſt given of Courſe. *Mich.* 28 *Car.* 2.

Execution after Error, tho' before, Notice void.

An Execution ſued out after a Writ of Error allowed is void, whether the Party have Notice of the Writ of Error or not; but if he have not Notice of it, he is not puniſhable for a Contempt, tho' Reſtitution ought to be made. 3 *Lev.* 312.

Debt on Judgment after Error.

After a Writ of Error brought on a Judgment in this Court, an Action of Debt may be brought upon the Judgment pending the Writ of Error; but then the Plaintiff ought to declare on the whole Matter, *viz.* Of the Judgment in this Court of the Removal by Writ of Error, and that the Judgment is ſtill in full Force, *prout patet per Record' in Banco Regis.* 3 *Lev.* 396. *v. antea fol.* 58, 92.

Debt on Judgment pending Error, Plt. may proceed to Judgment, but can't have Execution if Deft. applies.

If an Action of Debt be brought on a Judgment pending a Writ of Error in the Original Action, the Plaintiff may proceed to Judgment, but not to take out Execution till the Writ of Error be determined. *Coe* and *Allam*, *Trin.* 9 *Geo.* 1. *Jackſon* and *Ducket*, *Hil.* 13 *Geo.* 1. But the Plaintiff may take out Execution notwithſtanding the Writ of Error, if the Defendant does not apply to the Court to Stay Execution. *Humphreys* and *Daniel*,

Paſ.

Paſ. 9 *Geo.* 2. The Plaintiff, pending a Writ of Error, cannot have an Exigent *poſt Ca. Sa.* on the Original Judgment. *Spinks* and *Bird*, *Paſ.* 10 *Geo.* 2.

Debt on Recognizance againſt Bail, pending Error, Proceedings ſtayed.

If a Writ of Error be brought on a Judgment, and the Plaintiff brings an Action of Debt on the Recognizance againſt the Bail in the Original Action, pending the Writ of Error, the Court will ſtay the Proceedings till the Writ of Error is determined; for if the Plaintiff might proceed to Judgment againſt the Bail, they would be thereby deprived of an Opportunity of ſurrendering the Defendant. *Newman* and *Butterworth*, *Hil.* 8 *G.* 2.

If Writ of Error abates by Death of Chief Juſtice, Execution with Leave of the Court.

If a Writ of Error be brought on a Judgment in this Court, and the Chief Juſtice dies [before he has returned the Writ of Error] whereby the Writ is abated, Execution may be taken out with Leave of the Court; but if taken out without Leave it will be ſet aſide, and Reſtitution ordered. *Cranborne* and *Quenel*, *Thornton* and *Hays*, *Hil.* 9 *Geo.* 2.

Of Tranſcribing.

At the Return of the Writ of Error a Rule muſt be given with the Clerk of the Errors, by the Defendant in Error, for the Plaintiff to tranſcribe the Writ of Error into the *King's Bench*, which Rule will be out in Eight Days after Service thereof on the Plaintiff in Error, or his Attorney; and if the Record be not tranſcribed in Eight Days, the Clerk of the Errors will ſign a *Non Pros.* The Rule to tranſcribe may be ſerved on the Plaintiff in Er-

ror, and need not be ſerved on his Attorney.

What Time the Clerk of the Errors takes to tranſcribe.

If the Writ of Error be returnable the firſt Day of a Term, the Clerk of the Errors takes the whole Term to tranſcribe the Record in, and does not carry in the Tranſcript until the laſt Day of that Term; and if the Writ of Error be returnable on any other Return than the firſt Return of a Term, he takes the whole ſubſequent Vacation to tranſcribe in, and carries in the Record on the firſt Day of the next Term.

After the Tranſcript is carried in, the whole Proceedings are in the *King's Bench.* See the *Attorney's Practice in the Court of King's Bench.*

Leave to file Warrant of Attorney after Error brought denied.

The Plaintiff had obtained Judgment in *Trin.* 1726. Error was brought in *Trin.* 1727. and the Want of a Warrant of Attorney had been aſſigned for Error, and a *Certiorari* taken out and returned, that there was no Warrant of Attorney, whereupon the Plaintiff applied to the Court for Leave to file his Warrant of Attorney; after Hearing *Cheſſhyre pro Quer.* and *Whitaker* and *Raby pro Def.* and great Conſideration, the Court refuſed to let the Warrant of Attorney be filed. *Nipſon* and *Quilter*, *Mich.* 1 *Geo.* 2.

Warrant of Attorney amended after Error brought.

The Plaintiff has brought a *Scire Facias* on a Recognizance of Bail, and had filed a Warrant of Attorney *de pl'ito tranſgr. ſuper Caſum ſuper Scire Facias*; Error was brought, and the Want of Warrant of Attorney aſ-

ſigned

ſigned for Error, and a *Certiorari* returned, that there was no Warrant of Attorney. The Plaintiff moved to amend the Warrant of Attorney, by making it *de placito Debiti ſuper Sci. Fa.* and upon hearing *Branthwayte pro Quer.* the Court gave Leave to amend. *Societas Belgica ad Indos occidentales negotians* v. *Henriques & al'*, *Paſ.* 1 *Geo.* 2. 2 *Brownl.* 167. 2 *Coke* 135.

Record amended after Error brought.

After Error brought the Record was ordered to be amended, by inſerting at the Top of the Roll *from the Day of St. Martin* in *Fifteen Days*, *in the Ninth Year*, &c. The Cauſe of Action having aroſe in *Michaelmas* Term. *Deacon* and *Vivian*, *Paſ.* 9 *G.* 2.

The like on Payment of Coſts, if Plaintiff in Error did not proceed.

Judgment Roll amended after Error brought, and *in Nullo eſt Erratum* pleaded, by ſtriking out the Words *ought to*, and inſerting the Word *do*, the Judgment being, that the Plaintiff *ought to recover*, inſtead of *do recover*: This Amendment was ordered without Coſts, if the Plaintiff in Error ſhould proceed; *aliter* Coſts were to be paid. *Foſter* and *Blackwell*, *Paſ.* 10 *Geo.* 2.

No Diſcontinuance after Error without Coſts.

Judgment *pro Quer.* on Demurrer, but not entered on Record. Error brought, the Court refuſed to let Plaintiff diſcontinue without paying the Coſts on the Writ of Error. *Pym* and *Warren*, *Mich.* 6 *Geo.* 2.

Precedents of Declarations, &c.

Count in Dower.

Hampſhire, *to wit*, *J.* R. and *E.* his Wife, by *W. S.* their Attorney, demand againſt *A. W.* the third Part of two Meſſuages and two Gardens, with their Appurtenances in *Goſport*, as the Dower of the ſaid *E.* of the Endowment of *A. W.* deceaſed, her late Husband, by Writ of our Lord the King of Dower, whereof ſhe hath nothing, &c.

Judgment by Nil Dicit.

And the ſaid *A.* the now Defendant, by *R. P.* his Attorney, comes and ſays nothing in Bar of the ſaid Action of the ſaid *J.* and *E.* whereby the ſaid *J.* and *E.* remain againſt the ſaid *A.* the now Defendant thereof undefended. Therefore it is conſidered, that the ſaid *J.* and *E.* recover againſt the ſaid *A.* the now Defendant, their Seiſin of the third Part above demanded, with the Appurtenances to be held by them in Severalty by Metes and Bounds; and nothing of the Mercy of the ſaid *A.* the now Defendant, becauſe he came the Firſt Day by Summons, &c. And hereupon the ſaid *J.* and *E.* ſay, that the ſaid *A.* late Husband of the ſaid *E.* died ſeiſed of the Tenements aforeſaid, with their Appurtenances in his Demeſne as of Fee, and pray a Writ of the ſaid Lord the King to be directed to the Sheriff of the County aforeſaid, as well to give them full Seiſin of

Writ of Seiſin and Inquiry awarded.

of the ſaid third Part with the Appurtenances, as to inquire of Damages, *&c.* And it is granted to them, returnable here, *&c.* [*the Return*] At which Day here come the ſaid *J.* and *E.* by their ſaid Attorney, and the Sheriff, *to wit*, ——— now returns, that he, by Virtue of the ſaid Writ to him directed, on the Twentieth Day of *November* laſt paſt, did cauſe full Seiſin of the third Part of the Tenements aforeſaid, with the Appurtenances (that is to ſay) of one Meſſuage, *&c.* to hold the ſame to the ſaid *J. R.* and *E.* in Severalty by Metes and Bounds, for and in the Name of the whole Dowry of the ſaid *E.* of the Tenements aforeſaid, with the Appurtenances, happening to her by the Death of the ſaid *A.* her late Husband, as by the ſaid Writ he was commanded, *&c.* The ſame Sheriff here alſo returns a certain Inquiſition taken before him at the Houſe of ———, at —— in the ſaid County, the —— Day of ——— laſt paſt, by the Oath of Twelve, *&c.* by Virtue of the Writ aforeſaid taken, by which it is found, that the ſaid *A. W.* deceaſed, late Husband of the ſaid *E.* in the ſaid Writ named, on the——— Day of ——— in the Year of our Lord ——— died ſeiſed of and in the Tenements aforeſaid, with the Appurtenances, in the ſaid Writ ſpecified, in his Demeſne as of Fee, and that the ſaid Tenements are of the clear yearly Value in all Iſſues beyond Reprizes of Twelve Pounds, and that Twenty Years are elapſed ſince the Death

Death of the ſaid *A.* the late Husband, *&c.* and that the ſaid *J.* and *E.* have ſuſtained Damages by reaſon of Detaining of the Dower aboveſaid, beſides their Coſts and Charges by them laid out about their Suit in this Behalf to Eighty Pounds, and for thoſe Coſts and Charges to Forty Shillings; Therefore it is conſidered, that the ſaid *J.* and *E.* recover againſt the ſaid *A.* the now Defendant, as well the Value of the third Part of the Tenements aforeſaid, with the Appurtenances, from the Time of the Death of her ſaid late Husband, *&c.* (which ſaid Value from the Time of the Death of the ſaid *A.* late the Husband of the ſaid *E.* amounts to Eighty Pounds) as their Damages aforeſaid to Eighty-two Pounds, by the Inquiſition aforeſaid in Form aforeſaid found, and alſo Eight Pounds and Ten Shillings, to the ſaid *J.* and *E.* at their Requeſt, for their Coſts and Charges aforeſaid, by the Court here for Increaſe adjudged, which ſaid Value and Damages in the Whole amount to ——, *&c.*

Signed 4th Feb. 1735.

Deft. by Guardian ſays, he was always ready to render Dower.

And the ſaid *W.* by *H. B.* who is admitted by the Court of the King here to defend in this Behalf for the ſaid *W.* who is under the Age of one and Twenty Years, as the Guardian of the ſaid *W.* comes and ſays, that from the Death of the ſaid *J.* late Husband of the ſaid *M.* he has been always ready, and ſtill is ready to render to the ſaid *M.* her Dower, of the ſaid Tenements and Premiſſes, with the Appurtenances

tenances, and renders the ſame here in Court to the ſaid *M.*

And thereupon the ſaid *M.* prays Leave to Imparle here until from the Day of St. *Michael* in Three Weeks, and ſhe has it, *&c.* The ſame Day is given to the ſaid *W.* here, *&c.* At which Day came here the aforeſaid *M.* by her Attorney aforeſaid, and the ſaid *W.* by his Guardian aforeſaid; And becauſe the ſaid *M.* doth not deny the Plea of the ſaid *W.* Therefore it is conſidered, that the ſaid *M.* do recover her Seiſin againſt the ſaid *W.* of the third Part of the Tenements aforeſaid, with the Appurtenances, and nothing of Mercy, becauſe the ſaid *W.* came on the Firſt Day of the Summons, *&c.* And hereupon the ſaid *M.* ſaith, that the ſaid *J.* her former Husband, *&c.* died ſeiſed of the Tenements aforeſaid, with the Appurtenances, whereof, *&c.* in his Demeſne, as of Fee; And ſhe prays a Writ of our Sovereign Lord the King, to be directed to the Sheriff of the County aforeſaid, as well to cauſe full Seiſin to be made to her of the ſaid third Part of the ſaid Tenements, with the Appurtenances, as alſo to inquire of Damages, *&c.* And becauſe by the Confeſſion of the ſaid *W.* above it ſeems to the Court here, that the ſame *W.* from the Death of the ſaid *J.* was always ready to render to the ſaid *M.* her Dower of the Tenements aforeſaid, with the Appurtenances, by reaſon whereof the ſaid *M.* ought not to recover the Value of the third

Imparlance.

Judgment.

Writ of Seiſin and Inquiry.

third Part of thoſe Tenements, nor her Damages, by occaſion of the Detaining her Dower aforeſaid, from the Time of the Death of the ſaid *J.* her ſaid former Husband, until the Day of the Iſſuing out the ſaid Original Writ of the ſaid *M.* againſt the ſaid *W. to wit*, from the Sixth Day of *February* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-five. And it ſeems to the Juſtices here, that the ſaid *M.* ought to recover againſt the ſaid *W.* the Value of the third Part of the Tenements aforeſaid, with the Appurtenances, and her Damages occaſioned by detaining her Dower aforeſaid, from the aforeſaid Day of iſſuing out the Original Writ aforeſaid, if, *&c.* Therefore the Sheriff is commanded, that he cauſe to be made to the ſaid *M.* full Seiſin of a third Part of the Tenements aforeſaid, with the Appurtenances; and that by the Oath of good and lawful Men of his Bailiwick he diligently inquire, if the ſaid *J.* died ſeiſed of the Tenements aforeſaid, with the Appurtenances in his Demeſne, as of Fee-Simple, or in Fee-Tail; and if he ſhall ſo find by their Inquiſition, then that he inquire upon their Oath, how much the Tenements aforeſaid are worth by the Year in all Iſſues above Repriſes, according to the juſt Value thereof; as alſo what Damages the aforeſaid *M.* hath ſuſtained, as well by occaſion of the Detaining her Dower aforeſaid from the ſaid Day of the Iſſuing the Original Writ afore-

aforeſaid, beyond the Value thereof, as for her Expences and Coſts by her laid out in this Suit; And the Inquiſition, &c.

And the ſaid *T. A.* by *R. H.* his Attorney comes and ſays, that the ſaid *M.* ought not to have her Dower of the ſaid Tenements, with the Appurtenances, by the Endowment of the ſaid *J.* her late Husband, becauſe he ſays, that the ſaid *J.* her late Husband, &c. neither at the Day when he married the ſaid *M.* nor at any Time afterwards, was ſeiſed of the ſaid Tenements, with the Appurtenances, whereof, &c. of ſuch an Eſtate as he could thereof endow the ſaid *M.* And of this he puts himſelf upon the Country; and the ſaid *M.* doth ſo likewiſe, &c. Therefore, &c. *Plea in Dower Husband not ſeiſed.*

Middleſex, *to wit*, *R. D.* late of *London* Carpenter, was ſummoned to anſwer unto *L. P.* of a Plea, that he render to him Sixty-two Pounds of lawful Money of *Great Britain*, which he owes to, and unjuſtly Detains from him, &c. And whereupon the ſaid *L.* by *J. C.* his Attorney, ſays, that whereas the ſaid *L.* heretofore, that is to ſay, in *Eaſter* Term in the Fourth Year of the Reign of His preſent Majeſty King *George* the Second, in his ſaid Majeſty's Court before Sir *Robert Eyre*, Knight, and his Companions, then his ſaid Majeſty's Juſtices of the Bench here at *Weſtminſter* in the County of *Middleſex*, by the Conſideration of the ſaid *Debt on a Judgment.*

ſaid Court recovered againſt the ſaid *R.* Sixty-two Pounds, which were adjudged to the ſaid *L.* in the ſaid Court for his Damages which he had ſuſtained, as well by occaſion of the not performing certain Promiſes and Undertakings to the ſaid *L.* by the ſaid *R.* then lately made, as for his Coſts and Charges by him about his Suit in that Behalf expended, whereof the ſaid *R.* is convicted, as by the Record and Proceedings thereof now remaining in His ſaid Majeſty's ſaid Court here, *to wit*, at *Weſtminſter* aforeſaid in the ſaid County of *Middleſex*, may appear; which ſaid Judgment ſtill remains in its full Strength, Force and Effect, not reverſed, vacated, annulled, diſcharged or ſatisfied; And the ſaid *L.* hath as yet obtained no Satisfaction of the aforeſaid Judgment, whereby an Action hath accrued to the ſaid *L.* to demand and have of the ſaid *R.* the ſaid Sixty-two Pounds, yet the ſaid *R.* (although often requeſted) hath not yet paid the ſaid Sixty-two Pounds, or any Part thereof, to the ſaid *L.* but hath hitherto refuſed, and ſtill doth refuſe to pay him the ſame, to the Damage of the ſaid *L.* Twenty Pounds; And therefore he brings Suit, *&c.*

Plea Nul tiel Record.

And the ſaid *R.* by *W. W.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, that the ſaid *L.* ought not to have his ſaid Action againſt him, becauſe he ſays, that there is not any ſuch Record of Recovery of Da-

Damages aforeſaid againſt him the ſaid *R.* in His ſaid Majeſty's Court before Sir *Robert Eyre*, Knight, and his Brethren, His ſaid Majeſty's Juſtices of the Common Bench, as the ſaid *L.* in his Declaration hath above alledged: And this he is ready to verify; Therefore prays Judgment, if the ſaid *L.* ought to have his ſaid Action thereof againſt him, *&c.*

Replication. Habetur tale Record'.

And the ſaid *L.* ſaith that he by any Thing before alledged ought not to be barred from having his aforeſaid Action maintained againſt the ſaid *R.* becauſe he ſaith, that there is ſuch a Record of Recovery againſt him the ſaid *R.* in His ſaid Majeſty's Court of Common Bench here remaining, as by the ſaid Declaration is above alledged; and this he is ready to verify by the ſaid Record, and he prays, that the ſaid Record may be inſpected and ſeen by the Juſtices here, *&c.* And becauſe the ſaid *L.* has not the ſaid Record now ready here in Court, it is ſaid by the ſaid Court here to the ſaid *L.* that he has the Record here on —— The ſame Day is given to the ſaid *R.* here, *&c.*

Cooke.

Michaelmas *Term in the Firſt Year of the Reign of King* George *the Second.*

Debt by Adminiſtrator de bonis non, &c. *on a Judgment recovered by Teſtator.*

Middleſex, *to wit*, LEWIS *Weſtcombe*, otherwiſe called *Weſcombe* late of

of *Rockley* in the County of *York*, Eſq; was ſummoned to anſwer *Robert Richardſon*, Eſq; Adminiſtrator of the Goods and Chattels, Rights and Credits which were of *Robert Fairbeard*, Eſq; deceaſed, at the Time of his Death, by *Anne Swinburne*, Widow, Executrix of the Teſtament of the ſaid *Robert Fairbeard*, unadminiſter'd, with his Teſtament annexed, of a Plea, that he render to the ſaid *Robert Richardſon* ſix Hundred and two Pounds and Ten Shillings of lawful Money of *Great Britain*, which he unjuſtly detains from him; And whereupon the ſaid *Robert Richardſon*, by *Francis Woodhouſe* his Attorney ſays, that whereas lately, *to wit*, in the Term of St. *Hilary* in the Fifth Year of the Reign of our Sovereign Lady *Anne*, late Queen of *Great Britain*, &c. in the Court of our ſaid Lady the late Queen, before the then Juſtices of our ſaid Lady the late Queen of the Bench at *Weſtminſter*, he the ſaid *Robert Fairbeard*, by the Conſideration of the ſame Court recovered againſt the ſaid *Lewis*, by the Name of *Lewis Weſtcombe*, late of *Rockley* in the County of *York*, Eſq; as well a certain Debt of ſix Hundred Pounds, as Fifty Shillings which were adjudged to the ſaid *Robert Fairbeard* for his Damages which he had by occaſion of the Detaining that Debt, whereof the ſaid *Lewis* was convicted, as by the Record and Proceſs thereof now remaining in the Court of our Lord the preſent King of the Bench

at *Weſtminſter* aforeſaid in the ſaid County of *Middleſex* plainly appears; And the ſaid *Robert Richardſon* further ſays, that the ſaid Judgment ſtill remains in its full Force, Strength and Effect no ways ſatisfied, reverſed or annulled; And that the ſaid *Robert Fairbeard* in his Life-time, or the ſaid *Anne Swinburne* in her Life-time, or either of them, or he the ſaid *Robert Richardſon* after the Death of the ſaid *Anne*, (to which ſaid *Robert Richardſon* Adminiſtration of the Goods and Chattels, Rights and Credits which were of the ſaid *Robert Fairbeard* at the Time of his Death unadminiſter'd by the ſaid *Anne* after the Death of the ſaid *Anne*, *to wit*, on the Twentieth Day of *July* in the Year of our Lord one Thouſand ſeven Hundred and Twenty-ſeven, at *Weſtminſter* aforeſaid in the ſaid County of *Middleſex*, was in due Manner, (with the Teſtament of the ſaid *Robert Fairbeard* annexed) committed by *William*, by Divine Providence Archbiſhop of *Canterbury*) have not, nor has any one of them ſued out Execution againſt the ſaid *Lewis* upon the ſaid Judgment, for the Debt and Damages aforeſaid, whereby an Action has accrued to the ſaid *Robert Richardſon*, as Adminiſtrator as aforeſaid, to demand and have of the ſaid *Lewis* the ſaid ſix Hundred and two Pounds and Ten Shillings; *Yet* the ſaid *Lewis*, although often required, *&c.* has not paid the ſaid ſix Hundred and two Pounds and Ten Shillings to the ſaid *Ro-*

bert Fairbeard in his Life-time, or to the ſaid *Anne Swinburne* after the Death of the ſaid *Robert Fairbeard*, or to either of them, or to the ſaid *Robert Richardſon*, after the Death of the ſaid *Anne*; but refuſed to pay the ſame to the ſaid *Robert Fairbeard* in his Life-time, and to the ſaid *Anne Swinburne* after the Death of the ſaid *Robert Fairbeard*; And ſtill refuſes to pay the ſame to the ſaid *Robert Richardſon*, and unjuſtly detains in Delay of the Adminiſtration of the Goods and Chattels, Rights and Credits of the ſaid *Robert Fairbeard* unadminiſter'd by the ſaid *Anne Swinburne* in her Life-time, and to the Damage of the ſaid *Robert Richardſon* of Ten Pounds, and thereupon he brings Suit, *&c.*

Profert. And the ſaid *Robert Richardſon* brings here into Court the ſaid Letters of Adminiſtration, which teſtify the Committing the ſaid Adminiſtration in Form aforeſaid; the Date whereof is on the Day and Year in that Behalf above mentioned, *&c.*

Debt on a Judgment in the Palace Court.

Surrey, *to wit*, *J. M.* late, *&c.* was ſummoned to anſwer *H. G.* of a Plea, that he render to him Ninety-nine Shillings and Eight Pence, which he owes to, and unjuſtly detains from him, *&c.* And thereupon the ſaid *H.* by *J. C.* his Attorney ſaith, that whereas the ſaid *H.* (that is to ſay) at the Court of the King's Palace at *Weſtminſter*, held before the Judges of the ſaid Court there (*to wit*) at *Southwark* in the County of *Surrey* aforeſaid, within the Juriſ-

Juriſdiction of the ſaid Court, on *Friday* the Twenty-third Day of *January* in the Ninth Year of the Reign of the preſent King, by Conſideration of the ſaid Court recovered againſt the ſaid *J. M.* (by the Name of *J. M.*) Ninety-nine Shillings and Eight Pence, which were aſſeſſed to the ſaid *H.* in the aforeſaid Court of the King's Palace at *Weſtminſter*, held before the ſaid Judges of the ſaid Court there, for his Damages which he had ſuſtained as well by occaſion of the not performing ſeveral Promiſes and Undertakings made by the ſaid *J. M.* to the ſaid *H.* as for his Coſts and Charges by him about his Suit in that Behalf expended, whereof the ſaid *J.* is convicted, as by the Record and Proceedings thereof in the ſame Court of the King's Palace at *Weſtminſter*, held before the Judges of the ſaid Court there, *to wit*, at *Southwark* aforeſaid in the County of *Surrey* aforeſaid, within the Juriſdiction of the ſaid Court there remaining may appear; Which ſaid Judgment ſtill remains in the ſaid Court there in full Force, not in the leaſt ſatisfied, reverſed or diſcharged; And the ſaid *H. G.* hath not as yet ſued out any Execution upon that Judgment, by which an Action hath accrued to the ſaid *H.* to require and have of the aforeſaid *J. M.* the aforeſaid Ninety-nine Shillings and Eight Pence; *Yet, &c.*

Plea, *Nul tiel Record.*

Repl. *Habetur tale Record'.*

Writ to the Judges of that Court.

And hereupon the ſaid *H.* prays the King's Writ to be directed to the Judges of the Court of the King's Palace at *Weſtminſter*, and to every of them, to certify to the Juſtices of the ſaid Lord the King here, Whether there be ſuch Record of ſuch Recovery of the ſaid Ninety-nine Shillings and Eight Pence againſt him the ſaid *J.* by the ſaid *H.* or not, and it is granted to him, returnable here. —— At which Day here come as well the ſaid *H.* as the ſaid *J.* by their Attornies aforeſaid, and the ſaid Judges of the Court, namely, *W. Duke* of *D.* Steward of the King's Houſhold, Sir *J. M.* Knight, Marſhal of the ſaid Houſhold, and Sir *T. A.* Knight, Steward of the Palace Court aforeſaid, ſent to the Juſtices here the Record aforeſaid, whereof there is Mention above made between the Parties aforeſaid, and remaining before them; which ſaid Writ and Record remain filed amongſt the Records here, without Day, *&c.*

Whereupon the ſaid *H.* prays Judgment, and his Debt aforeſaid, together with his Damages by reaſon of detaining the ſaid Debt to be adjudged to him, *&c.*

Thomſon.

Trinity *Term in the Thirteenth and Fourteenth Years of the Reign of King* George *the Second.*

Debt on Bond by Executor againſt an Heir at Law.

London, *to wit*, JOHN *Stout*, late of the Town of *Hertford* in the County of *Hertford*, Gent. Brother and Heir of *Henry Stout*,

Stout, late of the Iſland of *Jamaica*, Eſq; deceaſed, otherwiſe lately called *Henry Stout*, *nunc in* London, *ſed de inſula* Jamaicæ, *Armiger'*, was ſummoned to anſwer *Sarah Fitter*, Widow, Executrix of the laſt Will and Teſtament of *James Fitter*, late of *London* Merchant, deceaſed, of a Plea, that he render to her four Thouſand three Hundred and thirty Pounds, which he unjuſtly detains, *&c.* and where- 1 Lev. 130,
upon the ſaid *Sarah*, by *Joſhua Sharpe* her 224.
Attorney ſays, that whereas the ſaid *Henry*, Brother of the ſaid *John*, whoſe Heir he is, in his Life-time, *to wit*, on the Fifth Day of *November* in the Year of our Lord one Thouſand ſeven Hundred and Twenty-five, at *London*, *to wit*, in the Pariſh of St. *Mary le Bow* in the Ward of *Cheap*, by his Writing obligatory, acknowledged himſelf to be bound to the ſaid *James* in his Life-time in the ſaid four Thouſand three Hundred and thirty Pounds, to be paid to the ſaid *James* when he ſhould be thereunto required; And to which Payment well and faithfully to be made he bound himſelf and his Heirs by the ſaid Writing; *Yet* the ſaid *Henry* in his Life-time, and the ſaid *John*, Brother and Heir of the ſaid *Henry*, after the Death of the ſaid *Henry* (although often required) have not, nor hath either of them paid the ſaid four Thouſand three Hundred and thirty Pounds to the ſaid *James* in his Life-time, or to the ſaid *Sa-*

rah after the Death of the ſaid *James*, but refuſed to pay the ſame to the ſaid *James* in his Life-time, and to the ſaid *Sarah* after his Death; And the ſaid *John* ſtill refuſes to pay the ſame to the ſaid *Sarah*, and unjuſtly detains in Delay of the faithful Execution of the ſaid Teſtament: Whereupon ſhe ſays ſhe is injured, and hath Damage to the Value of Twenty Pounds: And thereupon ſhe brings Suit, *&c.* And the ſaid *Sarah* brings here into Court, as well the ſaid Writing which teſtifies the ſaid Debt in Form aforeſaid, whoſe Date is the ſame Day and Year aforeſaid; as the Letters Teſtamentary of the ſaid *James*, whereby it appears to the Court here, that the ſaid *Sarah* is Executrix of the laſt Will and Teſtament of the ſaid *James*, and thereof has the Adminiſtration, *&c.*

Plea. Riens per Diſcent. 1 Lev. 130, 224. Stat. 3, 4 W. & M. c. 14. 5 Modern 122. Redſhaw *and* Heſter. Jeffry *and* Barrow, Paſ. 10 Annæ. *Caſes in Law and Equity* 18.

And the ſaid *John* by *Thomas Smith* his Attorney, comes and defends the Force and Injury, when, *&c.* and ſaith, That he ought not to be charged with the Debt aforeſaid, as Brother and Heir of the ſaid *Henry*, by Virtue of the ſaid Writing, Becauſe proteſting, that the Writing aforeſaid is not the Deed of the ſaid *Henry*; *And* for Plea ſaith, that he hath not any Lands or Tenements by Deſcent as Heir to the ſaid *Henry* in Fee-Simple, nor had on the Day of obtaining the Original Writ of the ſaid *Sarah*, nor at any Time ſince: And this he

he is ready to verify: Wherefore he prays Judgment, if he ought to be charged with the Debt aforeſaid, as Brother and Heir of the ſaid *Henry*, by Virtue of the Writing aforeſaid. Lilly 147.

And the ſaid *Sarah* ſaith, that by any Thing by the ſaid *John* above in pleading alledged ſhe ought not to be precluded from having her ſaid Action againſt him, becauſe ſhe ſays, that before the Day of obtaining her ſaid Original Writ, *to wit*, on the Third Day of *April* in the Thirteenth Year of the Reign of our ſaid Lord the now King, the ſaid *John* had *ſufficient* Lands and Tenements by Deſcent, as Heir to the ſaid *Henry*, in Fee-Simple, whereout he might have ſatisfied the ſaid *Sarah* the Debt and Damages aforeſaid, *to wit*, at *London* aforeſaid, in the Pariſh and Ward aforeſaid: And this ſhe is ready to verify: Wherefore ſhe prays Judgment, and that the ſaid Debt, together with the Damages by means of the Detention of the ſaid Debt, may be adjudged unto her, *&c.* *Replication.*

And the ſaid *John* ſaith, that before the Day of obtaining the ſaid Original Writ of the ſaid *Sarah*, he had not *ſufficient* Lands and Tenements by Deſcent, as Heir to the ſaid *Henry*, in Fee-Simple, whereout he might have ſatisfied the ſaid *Sarah* the Debt and Damages aforeſaid, *or any Part thereof*, as the ſaid *Sarah* hath in replying above alledged: And of this he puts himſelf on the Country, *&c.* And the ſaid *Sarah* doth ſo likewiſe, *&c.* *Rejoinder.*

Debt on a Bond by ſurviving Obligees.

Oxfordſhire, *to wit*, *A. H.* late, &c. (otherwiſe called, &c.) was ſummoned to anſwer *W. B. J. V.* and *T. B.* of a Plea, that ſhe rendered to them Ten Pounds of lawful Money of *Great Britain*, which ſhe owes to them, and unjuſtly detains, &c. and whereupon the ſaid *W. J.* and *T.* by *C. C.* their Attorney ſay, that whereas the ſaid *A.* on the —— Day of ——— in the Year of our Lord ——— at —— in the County aforeſaid, by her certain Writing obligatory had acknowledged her ſelf to be bound to the ſaid *W.* and to one *V. S.* now deceaſed (whom the ſaid *W. J.* and *T.* ſurvived) and the ſaid *J.* and *T.* in the aforeſaid Ten Pounds, to be paid to them the ſaid *W. V. J.* and *T.* when ſhe the ſaid *A.* ſhould be thereunto required; *Yet* the aforeſaid *A.* (although often required) hath not paid the ſaid Ten Pounds to the ſaid *W. V. J.* and *T.* or any of them, in the Life-time of the ſaid *V.* or to the ſaid *W. J.* and *T.* or any of them, ſince the Death of the ſaid *V.* (whom the ſaid *W. J.* and *T.* ſurvived) but hath refuſed to pay them the ſame, and doth ſtill refuſe to pay the ſame to the ſaid *W. J.* and *T.* Whereupon they ſay they are injured, and have Damage to the Value of Ten Pounds: And thereupon they bring Suit, &c. And they bring here into Court the ſaid Writing obligatory, which teſtifies the Debt aforeſaid in Form aforeſaid, the Date whereof is on the Day and Year aboveſaid, &c.

Middle-

Debt on a Bond by the Executor of the Obligee.

Middleſex, *to wit*, *J. M.* late of *Weſtminſter* in the County of *Middleſex* aforeſaid Lime-Merchant, otherwiſe called *J. M. de Paroch. Sanct. Margar' Weſtminſt. in Com. Middleſex*, —— was ſummoned to anſwer unto *W. F.* Executor of the laſt Will and Teſtament of *R. F.* his late Father deceaſed, in a Plea, that he render to the ſaid *W. F.* two Hundred Pounds, which he unjuſtly detains from him, *&c.* And whereupon the ſaid *W. F.* by *W. W.* his Attorney ſaith, that whereas the aforeſaid *J.* the Twenty-ſecond Day of *April* in the Year of our Lord one Thouſand ſeven Hundred and Twenty-eight at *Weſtminſter* aforeſaid in the County aforeſaid, by his certain Writing obligatory acknowledged himſelf to be held and firmly bound unto the aforeſaid *R. F.* in his Life-time in the aforeſaid two Hundred Pounds, to be paid to the aforeſaid *R. F.* his Executors or Adminiſtrators, when he the ſaid *J.* ſhould be thereunto required; Nevertheleſs the aforeſaid *J.* (altho' often required) the aforeſaid two Hundred Pounds to the aforeſaid *R. F.* in his Life-time, or to the aforeſaid *W. F.* after the Deceaſe of the aforeſaid *R. F.* hath not paid, but hath refuſed to pay them the ſame, and ſtill refuſes to pay the ſame to the ſaid *W. F.* and unjuſtly detains the ſame: Whereupon the ſaid *W. F.* ſaith that he hath ſuſtained Damage to the Value of Ten Pounds: And thereupon he bringeth this Suit, *&c.* And he bring-

bringeth here into Court as well the Writing obligatory aforeſaid, which teſtifies the Debt aforeſaid in Form aforeſaid, the Date whereof is on the Day and Year aforeſaid, as alſo the Letters Teſtamentary of the aforeſaid *R. F.* whereby it ſufficiently appears to the Court here, that the aforeſaid *W. F.* is the Executor of the laſt Will and Teſtament of the aforeſaid *R. F.* and thereupon to have Adminiſtration, *&c.*

Debt on a Bond againſt the Executor of the Obligor.

J. J. late of, *&c.* Executor of the laſt Will and Teſtament of *E. B.* deceaſed, was ſummoned to anſwer *J. T.* of a Plea, that he rendered to him one Hundred and twenty Pounds, which he unjuſtly detains from him, *&c.* And whereupon the ſaid *J. T.* by *W. W.* his Attorney ſaith, that whereas the above named *E.* in her Life-time, *to wit*, on the —— Day of —— in the Year of our Lord —— at —— in the County of —aforeſaid, by her Writing obligatory acknowledged herſelf to be bound to the ſaid *J. T.* in the aforeſaid one Hundred and twenty Pounds to be paid to the ſame *J. T.* when ſhe the ſaid *E.* ſhould be thereunto required: *Neverthelefs* the ſaid *E.* in her Life-time, or the ſaid *J. J.* after the Death of the ſaid *E.* although often required have not, nor hath either of them paid the ſaid one Hundred and twenty Pounds to the ſaid *J. T.* but they refuſed, and the aforeſaid *J. J.* doth ſtill refuſe to pay him the ſame; and whereupon the ſaid *T.* ſays he is injured, and hath Da-

Damage to the Value of Ten Pounds: And thereupon he brings his Suit, *&c.* and he brings here into Court the Writing aforesaid, which testifies the Debt aforesaid in Form aforesaid, the Date whereof is on the same Day and Year aforesaid.

And the said *J. J.* by *F. B.* his Attorney comes and defends the Force and Injury, when, *&c.* and saith, that the said *J. T.* ought not to have or maintain his said Action against him, because he saith, that he the said *J. J.* never was Executor of the last Will and Testament of *E. B.* deceased, as the said *J. T.* by his said Declaration above alledges, neither did he ever as an Executor of the last Will and Testament of the said *E. B.* administer any of the Goods and Chattels which were the said *E. B.*'s at the Time of her Decease: And this he is ready to verify: Wherefore he prays Judgment, if the said *J. T.* ought to have his said Action against him, *&c.* *Plea.* Ne Unques Executor.

And the said *J.* saith, that he ought not to be precluded from having his aforesaid Action against the said *J.* because he saith that the aforesaid *J.* hath, as Executor of the last Will and Testament of the said *E. B.* administer'd divers Goods and Chattels which were of the said *E. B.* at the Time of her Decease, that is to say, at ——— aforesaid: And this he prays may be inquired of by the Country, *&c.* *Replication.*

Cooke.

Cooke.

Michaelmas *Term in the Eleventh Year of the Reign of King* George *the Second.*

Debt on a Bail-Bond at the Suit of an Attorney.

Surrey, *to wit,* *J. L.* late of Saint *Olave* in *Southwark* in the County of *Surrey* aforesaid, Woolstapler, was attached by His present Majesty's Writ of Privilege issuing out of this Court, to answer to *L. R.* Gentleman, one of the Attornies of His said Majesty's Court of Common Bench here, according to the Liberties and Privileges of the same Court for such Attornies, and other Ministers of the same Bench from Time beyond the Memory of Man used and approved in the same Court, in a Plea of Debt, and whereupon the said *L.* in his proper Person says, that the said *J.* has not rendered to him the said *L.* Sixty-three Pounds Two Shillings which he owes to him, and unjustly detains, for that whereas, on the Twenty-ninth Day of *June* in the Eleventh Year of His present Majesty's Reign, the said *L.* (he being then one of the Attornies of the said Court of Common Bench) sued forth out of His Majesty's said Court of Common Bench here, *to wit,* at *Westminster* in the County of *Middlesex,* His said Majesty's Writ, called a Writ of Attachment of Privilege, against the said *J. L.* Woolstapler, directed to the Sheriff of the said County of *Surrey,* by

by which ſaid Writ the ſaid Sheriff was commanded by His ſaid Majeſty to attach the ſaid *J. L.* if he ſhould be found within his Bailiwick, and him ſafely keep, ſo that he might have him before His ſaid Majeſty's Juſtices at *Weſtminſter*, on *Monday* next after Three Weeks from the Day of Saint *Michael* then next following, to anſwer the ſaid *L.* one of the Attornies of His ſaid Majeſty's Court of Common Bench, according to the Liberties and Privileges of that Court for ſuch like Attornies and other Miniſters of the ſame Bench uſed and approved of in the ſame, from the Time whereof there was not any Remembrance to the contrary, in a Plea of *Treſpaſs upon the Caſe*, and that the ſaid Sheriff ſhould have there that Writ; which ſaid Writ afterwards, and before the Return thereof, that is to ſay, on the Eleventh Day of *Auguſt* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-ſeven, at the ſaid Pariſh of Saint *Olave Southwark* in the ſaid County of *Surrey*, was delivered by the ſaid *L.* to *J. R.* then, and continually afterwards until the Return of the ſaid Writ, Sheriff of the ſaid County of *Surrey*, to be executed in due Form of Law; by Virtue of which ſaid Writ the ſaid *J. R.* afterwards, and before the Return of the ſaid Writ, that is to ſay, on the ſaid Eleventh Day of *Auguſt* in the ſaid Year of our Lord laſt above mentioned, at the ſaid Pariſh of Saint *Olave Southwark* aforeſaid, within

in his Bailiwick, arreſted the ſaid *J. L.* and had and detained him there in his Cuſtody by Virtue of the ſaid Writ, until the ſaid *J. L.* afterwards, and before the Return of the ſaid Writ, *to wit*, on the ſaid Eleventh Day of *Auguſt* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-ſeven, at the Pariſh of Saint *Olave Southwark* aforeſaid in the ſaid County of *Surrey*, by his Writing obligatory, commonly called a Bail-Bond, acknowledged himſelf to be held and firmly bound to the ſaid *J. R.* by the Name of *J. R.* Eſq; High Sheriff of the County of *Surrey* aforeſaid, in the Sum of Sixty-three Pounds Two Shillings of good and lawful Money of *Great Britain*, to be paid to the ſaid Sheriff when he ſhould be thereto required, with a Condition thereunder written, that if the ſaid *J. L.* ſhould appear before His ſaid Majeſty's Juſtices at *Weſtminſter* on the ſaid *Monday* next after Three Weeks from the Day of Saint *Michael*, to anſwer the ſaid *L.* one of the Attornies, and ſo forth, in the ſaid Plea of Treſpaſs upon the Caſe, that then that Obligation to be void and of no Force; otherwiſe to ſtand and remain in full Force, Vigor and Effect; which ſaid Writing obligatory, with the ſaid Condition there-under written, was taken by the ſaid Sheriff, by Virtue of the ſaid Writ, and by Force of the Statute in ſuch Caſe lately made and provided. And the ſaid *L.* in Fact ſaith, that the ſaid *J. L.* did not appear

pear before His ſaid Majeſty's Juſtices at *Weſtminſter*, on the ſaid *Monday* next after Three Weeks from the Day of Saint *Michael*, in the Condition aforeſaid mentioned, to anſwer to the ſaid *L.* in his ſaid Plea of Treſpaſs upon the Caſe, according to the Form and Effect of that Condition, whereby that Writing obligatory became forfeited to the ſaid *J. R.* and the ſame being ſo forfeited, and the Money therein mentioned, or any Part of it, not being paid, he the ſaid *J. R.* Sheriff of the ſaid County of *Surrey* afterwards, that is to ſay, on the firſt Day of *November* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-ſeven, at the ſaid Pariſh of Saint *Olave Southwark*, aſſigned to the ſaid *L.* the ſaid Writing obligatory, by indorſing the ſame, and atteſting it under his Hand and Seal in the Preſence of Two credible Witneſſes, *to wit*, *E. H.* and *G. N.* according to the Form of the Statute in ſuch Caſe made and provided; by reaſon of which ſaid Premiſſes, and by Force of the Statute in ſuch caſe made and provided, an Action hath accrued to him the ſaid *L.* as Aſſignee of the ſaid *J. R.* Sheriff of the ſaid County of *Surrey*, to demand and have of the ſaid *J. L.* the ſaid Sum of Sixty-three Pounds Two Shillings: Nevertheleſs the ſaid *J. L.* (although often requeſted) hath not rendered the ſaid Sum of Sixty-three Pounds Two Shillings to the ſaid *L.* but hitherto always hath refuſed, and ſtill doth refuſe, to render the

ſame to the ſaid *L.* and the aforeſaid Sum of Money mentioned in the ſaid Writing obligatory is ſtill remaining unſatisfied, to the Damage of him the ſaid *L.* of Forty Shillings: And therefore he brings Suit, and ſo forth. And the ſaid *L.* brings here into Court the Writing obligatory aforeſaid, in Form aforeſaid indorſed, which teſtifies the ſaid Debt in Manner aforeſaid, and bears Date the Day and Year in that reſpect above mentioned, and ſo forth.

John Doe and *Richard Roe*, } Pledges of Proſecuting.

Hilary *Term*, &c.

Declaration in Debt Qui tam *on the Stat.* 8 Anne, c. 9. §. 35. *For not inſerting in Indentures of Apprenticeſhip the full Sum received.*

London, *to wit*, *O. W.* late of *London* Linen-Draper, was ſummoned to anſwer our Lord the King, and *J. C.* who as well for our ſaid Lord the King as for himſelf, proſecutes in this Behalf, of a Plea, that he render to our ſaid Lord the King and the ſaid *J. C.* who as well, *&c.* one Thouſand two Hundred and Sixty Pounds, which to our ſaid Lord the preſent King and the ſaid *J. C.* who as well, *&c.* he owes, and unjuſtly detains, and whereupon the ſaid *J. C.* who as well for our ſaid Lord the King as for himſelf, proſecutes in this Behalf by *W. W.* his Attorney ſays, that by a certain Indenture made at *London* aforeſaid, *to wit*, in the Pariſh of Saint *Mary le Bow*

in the Ward of *Cheap*, after the Firſt Day of *May* in the Year of our Lord one Thouſand ſeven Hundred and Ten, *to wit*, on the Twenty-firſt Day of *Auguſt* in the Year of our Lord one Thouſand ſeven Hundred and Twenty-three, between one *T. H.* Son of *W. H.* late of *C.* in the County of *Derby*, Eſq; deceaſed, and the ſaid *O. W.* and in due Manner executed, bearing Date on the ſame Day and Year, the ſaid *T.* put himſelf Apprentice to the ſaid *O.* by the Name of *O. W.* Citizen and Leatherſeller of *London*, to be inſtructed in his Art and Buſineſs of a Linen-Draper, to ſerve him as an Apprentice from the Day of the Date of the ſaid Indenture, unto the full End and Term of Seven Years from thence next enſuing fully to to be complete and ended; which ſaid Indenture then and there made and executed, contained all the Covenants, Articles, Contracts and Agreements, relating to the Serving the ſaid Apprenticeſhip; And that in Conſideration of the Premiſſes, and for and in reſpect of the ſaid Apprenticeſhip, the ſaid *T.* then, *to wit*, on the ſaid Twenty-firſt Day of *Auguſt* in the ſaid Year of our Lord one Thouſand ſeven Hundred and Twenty-three, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, paid to the ſaid *O. W.* three Hundred Pieces of coined Gold Money of *Great Britain*, called Guineas, of the Value in ready Money of three Hundred and fifteen Pounds, as a Reward and Conſideration for taking the

ſaid *T.* to be his Apprentice, as aforeſaid; and that the ſaid Sum of Money of three Hundred Pieces of coined Gold ſo given and paid, as aforeſaid, was not truly and fully inſerted, written and ſpecified in the ſame Indenture, according to the Form of the Statute in ſuch Caſe lately made and provided, but in the Place of it the Sum of three Hundred Pounds only was inſerted, written and ſpecified in the ſame Indenture, contrary to Form and Effect of that Statute, whereby an Action has accrued to our ſaid Lord the King and the ſaid *J. C.* who as well, *&c.* to demand and have of the ſaid *O.* ſix Hundred and thirty Pounds, Parcel of the ſaid one Thouſand two Hundred and ſixty Pounds, being double the Sum ſo given and paid as aforeſaid. *And alſo whereas* by one other Indenture made at *London* aforeſaid, in the Pariſh and Ward aforeſaid, after the Firſt Day of *May* in the Year of our Lord one Thouſand ſeven Hundred and ten aforeſaid, *to wit*, on the ſaid Twenty-firſt Day of *Auguſt* in the Year of our Lord one Thouſand ſeven Hundred and Twenty-three, between one *T. H.* another Son of the ſaid *W. H.* late of *C.* in the County of *Derby*, Eſq; deceaſed, and the ſaid *O. W.* and in due Manner executed, bearing Date on the ſame Day and Year, the ſaid laſt mentioned *T.* put himſelf Apprentice to the ſaid *O. W.* to be inſtructed in his ſaid Art and Buſineſs of a Linen-Draper, to ſerve him after the Manner of an Apprentice, from the

Second Count.

the Day of the Date of the ſaid laſt Indenture, unto the full End and Term of Seven Years from thence next enſuing fully to be complete and ended; which ſaid laſt Indenture then and there made and executed, contained all the Covenants, Articles and Agreements relating to the ſerving the ſaid Apprenticeſhip laſt mentioned; and that in Conſideration of the Premiſſes, and for and in reſpect of the ſaid Apprenticeſhip laſt mentioned, the ſaid *T.* then, *to wit*, on the ſaid Twenty-firſt Day of *Auguſt* in the ſaid Year of our Lord one Thouſand ſeven Hundred and Twenty-three at *London* aforeſaid, in the Pariſh and Ward aforeſaid, paid to the ſaid *O. W.* three Hundred and Fifteen Pounds of lawful Money of *Great Britain*, as a Reward and Conſideration for taking the ſaid laſt mentioned *T.* to be his Apprentice as aforeſaid; and that the ſaid Sum of three Hundred and Fifteen Pounds ſo given and paid as aforeſaid, was not truly and fully inſerted, written and ſpecified in the ſaid laſt Indenture, according to the Form and Effect of the Statute in ſuch Caſe lately made and provided, but in the Place thereof the Sum of three Hundred Pounds only was inſerted, written and ſpecified in the ſaid laſt Indenture, contrary to the Form and Effect of that Statute, whereby an Action has accrued to our ſaid Lord the King and the ſaid *J. C.* who as well, *&c.* to demand and have of the ſaid *O. W.* other ſix Hundred

and Thirty Pounds, Reſidue of the ſaid one Thouſand two Hundred and Sixty Pounds, being double the laſt mentioned Sum ſo given and paid as aforeſaid; *Yet* the ſaid *O. W.* (although often required) has not yet rendered the ſaid one Thouſand two Hundred and Sixty Pounds, or any Parcel thereof, to our ſaid Lord the King and the ſaid *J. C.* who as well, *&c.* or to either of them, but has hitherto denied, and ſtill does deny to render the ſame to them, to the Damage of the ſaid *J. C.* who as well, *&c.* of Ten Pounds; And thereupon as well for our Lord the King as for himſelf, he brings Suit, *&c.*

Debt againſt the Warden of the Fleet *for an Eſcape.*

Middleſex, *to wit*, Be it remember'd, That on the Twenty-third of *October* in this ſame Term, *James Willis* came here into Court by *G. W.* His Attorney, and exhibited to His Majeſty's Juſtices here his certain Bill againſt *James Gambier*, Eſq; Warden of His now Majeſty's Priſon of the *Fleet* preſent here in Court in his own proper Perſon, in a Plea of Debt, the Tenor of which Bill followeth in theſe Words: To the Juſtices of His Majeſty's Court of Common Bench, *Middleſex*, to wit, *J. W.* by *G. W.* his Attorney complaineth of *J. Gambier* Warden of His now Majeſty's Priſon of the *Fleet* preſent here in Court in his own proper Perſon, in a Plea of Debt, for that he hath not rendered to the ſaid *J. Willis* Forty-two Pounds and Ten Shillings, which he oweth to, and

and unjuſtly detaineth from him, *&c.* for that, *to wit*, That whereas the ſaid *J. Willis* heretofore (that is to ſay) in *Eaſter* Term, in the Seventh Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, *&c.* in His Majeſty's Court of Common Bench here at *Weſtminſter* in the County of *Middleſex*, by the Judgment of the ſame Court recovered againſt one *Iſaac Meure*, Eſq; Forty-two Pounds and Ten Shillings, for his Damages which he had ſuſtained, as well by occaſion of the ſaid *Iſaac* not having performed ſeveral Promiſes and Aſſumptions by him then lately made to the ſaid *J. Willis* at *Weſtminſter* aforeſaid, as for his Coſts and Charges by him in and about his Suit in that Behalf put to, whereof the ſaid *Iſaac Meure* is convicted, as by the Records remaining in His ſaid preſent Majeſty's Court of Common Bench here, *to wit*, at *Weſtminſter* aforeſaid, fully appears; which ſaid Judgment hitherto remains in it's full Force and Vigour, and in no manner reverſed, annulled or ſatisfied: (*And whereas alſo* afterwards, to wit, on *Wedneſday* next after Three Weeks of the Holy *Trinity* in *Trinity* Term aforeſaid, the ſaid *I. Meure* then being in the Cuſtody of the ſaid *James Gambier* then and from that Time till now, and ſtill being Warden of the ſaid Priſon of the *Fleet*, he the ſaid *I. Meure*, by the ſaid *J. Gambier*, then Warden of the ſaid Priſon of the *Fleet*, by Virtue of the Writ of the

ſaid Lord the King of *Habeas Corpus* directed to him the ſaid Warden, was brought to the Bar here at *Weſtminſter* aforeſaid, and thereupon the ſaid *I. Meure* then and there, at the Deſire of the ſaid *J. Willis*, by his ſaid Attorney, was then and there by the ſaid Court committed to the Priſon of the *Fleet* in Execution for the ſaid Damages, there to remain until he ſhould be thence legally diſcharged, as in the ſame Court at *Weſtminſter* appeareth on Record.) *And whereas alſo* afterwards, to wit, on the Third Day of *July* laſt the ſame *I. M.* being then preſent in the ſaid Court of Common Bench here, *to wit*, at *Weſtminſter* aforeſaid, then and there at the Requeſt of the ſaid *J. Willis*, by the ſaid Court was committed to the Cuſtody of the ſaid *J. Gambier*, then and now Warden of the ſame Priſon of the *Fleet*, in Execution for the Damages aforeſaid, at the Suit of the ſaid *J. Willis*, as in the ſame Court at *Weſtminſter* appeareth on Record, and in the Cuſtody of the ſaid *J. Gambier* in the aforeſaid Priſon the ſaid *I. M.* remained for the Cauſes aforeſaid, until the ſaid *J. Gambier* afterwards, *to wit*, the Twenty-fourth Day of *July* in the Eighth Year of His ſaid Majeſty's Reign at *Weſtminſter* aforeſaid, freely and voluntarily permitted and ſuffered the ſaid *I. M.* to go at large where-ever he pleaſed out of the Cuſtody of the ſaid *J. Gambier* (the ſaid *J. G.* being then and now Warden of His ſaid Majeſty's Priſon of the *Fleet*)

Fleet) the Damages aforeſaid, or any Part or Parcel thereof being not then, or yet in the leaſt paid or ſatisfied to the ſaid *J. Willis*, by which an Action hath accrued to the ſaid *J. Willis* to demand and have of the ſaid *J. Gambier* the aforeſaid Forty-two Pounds and Ten Shillings: *Nevertheleſs* the ſaid *J. Gambier* (altho' often requeſted) the ſaid Forty-two Pounds and Ten Shillings hath not yet rendered to the ſaid *J. Willis*, but to render to him hath hitherto altogether denied, and ſtill doth deny, to the Damage of the ſaid *J. Willis* Twenty Pounds; and therefore he prays a Remedy, *&c.*

Pledges of Proſecution { *John Doe*, *Richard Roe.*

Plea, that the Priſoner eſcaped without the Knowledge of Deft. and returned before Notice of the Eſcape, and was afterwards diſcharged by the Court by Virtue of the Act for Relief of Debtors.

And the ſaid *J. Gambier* in his proper Perſon comes and defends the Force and Injury, when, *&c.* and ſays, that the ſaid *J. W.* ought not thereupon to have or maintain his ſaid Action againſt him the ſaid *J. G.* becauſe he ſays, that after the Commitment of the ſaid *I. M.* to the ſaid Priſon of the *Fleet* in Execution for the Demand aforeſaid, at the Suit of the ſaid *J.* in Form aforeſaid made, *to wit*, on the ſaid Fifteenth Day of *October* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-three aforeſaid, he the ſaid *I. M.* then being in the Priſon of the *Fleet* aforeſaid, in Execution for the Damages aforeſaid, under the Cuſtody of the ſaid *J. G.* againſt the Will of the ſame *J.* and

without the Knowledge of the ſaid *J.* eſcaped into the Pariſh of St. *Clement's Danes* aboveſaid, and to Places to the ſaid *J. G.* unknown fled. And the ſaid *J. G.* further ſays, that before the Day of exhibiting the ſaid Bill, and before the ſaid *J. G.* had any Notice of the ſaid Eſcape, that is to ſay, the Thirty-firſt Day of the Month of *October* aforeſaid in the ſaid Year of our Lord one Thouſand ſeven Hundred and Thirty-three at *London*, that is to ſay, in the Pariſh of St. *Bridget*, otherwiſe *Brides*, in the Ward of *Farringdon Without*, the ſaid *I. M.* into the Priſon aforeſaid, without the Knowledge of the ſaid *J. G.* returned, and continually after ſuch Return was detained in the ſame Priſon under the Cuſtody of the ſaid *J. G.* in Execution of the Damages aforeſaid, at the Suit of the ſaid *J.* until he the ſaid *I. M.* afterwards, *to wit*, on the ſame Thirty-firſt Day of *October* at *Weſtminſter* aforeſaid in the County of *M.* aforeſaid, by the ſaid Court of our Sovereign Lord the now King of the Bench here aforeſaid, by Virtue of an Act of Parliament in ſuch Caſe made and provided, intitled, *An Act for the Relief of Debtors, with reſpect to the Impriſonment of their Perſons*, out of the Cuſtody of him the ſaid *J. G.* as to the ſaid *I.* was diſcharged, he the ſaid *J. G.* being then Warden of the ſaid Priſon of the *Fleet*, which ſame Eſcape of the ſaid *I. M.* out of the Priſon aforeſaid, and out of the

ſaid

ſaid *J. G.*'s Cuſtody as aforeſaid, ſo as aforeſaid, made is the ſame Eſcape, for which the ſaid *J.* above againſt the ſame *J. G.* hath declared: And this he the ſaid *J. G.* is ready to verify: Wherefore he prays Judgment, if the ſaid *J.* ought to have or maintain his ſaid Action againſt him the ſaid *J. G. &c.*

And the ſaid *J. W.* ſays, that the aforeſaid Plea by him the ſaid *J. G.* pleaded, and the Matter therein contained, are inſufficient to preclude him the ſaid *J.* from having his ſaid Action againſt him the ſaid *James*, to which ſaid Plea he the ſaid *J.* is under no Neceſſity, nor any Ways bound by the Law of the Land, to anſwer: And this he the ſaid *J.* is ready to verify: Wherefore upon Account of the Defect of a ſufficient Plea in this Caſe he the ſaid *J.* prays Judgment, and his Debt, together with his Damages occaſioned by the Detention of the ſaid Debt, to be adjudged to him. *Demurrer.*

And in as much as he the ſaid *J. G.* has alledged ſufficient Matter in Law in his Plea aforeſaid, to preclude the ſaid *J.* from having his ſaid Action againſt the ſaid *James* which he the ſaid *James* is ready to verify, and which the ſaid *J.* does not deny, or give any Anſwer thereunto, but utterly refuſes to admit the Verifying thereof, he the ſaid *James* prays Judgment, and that the ſaid *J.* may be precluded from having his ſaid Action againſt him the ſaid *James*. And becauſe the Juſtices here will *Joinder in Demurrer.*

will adviſe themſelves of and upon the Premiſſes, before they give their Judgment thereon, a Day is given to the ſaid Parties here until ——— next after —— to hear their Judgment thereon, becauſe the ſame Juſtices here are thereof not yet adviſed, *&c.*

Debt againſt a Sheriff for an Eſcape.

London, *to wit*, *H. H.* late of *London*, Knight, and *R. A.* late, *&c.* Eſq; were ſummoned to anſwer unto *R. C.* in a Plea, that they render to him Thirteen Pounds which they owe, and unjuſtly detain from him, *&c.* and whereupon the ſaid *W.* by *J. T.* his Attorney ſaith, that whereas the ſaid *W.* by the Name of *W. C.* otherwiſe, *to wit*, in the Term of the Holy *Trinity* in the Sixth and Seventh Years of the Reign of the Lord the now King, in the Court of the Lord the now King of the Common Bench at *Weſtminſter*, before Sir *Robert E.* Knight, and his Companions, then Juſtices of the Lord the King of the ſame Bench at *Weſtminſter*, did recover by Judgment of the ſaid Court againſt *T. B.* by the Name of *T. B.* Thirteen Pounds for Damages, which he the ſaid *W. C.* had ſuſtained by Reaſon of the ſaid *T.*'s not performing certain Promiſes and Undertakings then lately made to the ſaid *W.* as for his Coſts and Charges by him laid out about the ſaid Suit whereof the ſaid *T.* is convicted, as by the Record and Proceedings thereof remaining in the ſaid Court may more fully appear; And the ſaid *W.*

C. afterwards, *to wit*, the Thirteenth Day of *June* in the Seventh Year of the Reign of the Lord the now King, profecuted out of the ſaid Court of Common Bench, of and upon the ſaid Judgment, a certain Writ of the Lord the now King, directed to the Sheriffs of *London*, by which Writ the Lord the now King commanded them that they took *T. B.* if he was to be found in their Bailiwick, and him ſafely keep, ſo that they might have his Body before the Juſtices of our Lord the King at *Weſtminſter*, in ———— to ſatisfy *W. C.* for Thirteen Pounds, which in the Court of the Lord the King, before the Juſtices of our Lord the King at *Weſtminſter* had been awarded to the ſaid *W. C.* for his Damages which he had ſuſtained by reaſon of the not performing ſeveral Promiſes and Undertakings made by the ſaid *T.* to the ſaid *W.* at *W.* whereof he was convicted. And reciting, Whereas the Sheriff of the Lord the King, of *Middleſex* had returned to the Juſtices of the Lord the now King at *Weſtminſter*, in ———— then laſt paſt, that the ſaid *T.* was not to be found in his Bailiwick; and in as much as it was ſufficiently teſtified in the ſaid Court of the Lord the King, that he lurked and wandered up and down in their Bailiwick, and that they ſhould have there that Writ, which Writ profecuted as aforeſaid the ſaid *W. C.* afterwards, and before the Return thereof, *to wit*, on the Thirtieth Day of *June* in the ſame Seventh Year

Year of the Lord the now King at *London* aforeſaid, in the Pariſh of St. *Mary le Bow* in the Ward of *Cheap*, delivered to the ſaid *H. H.* and *R. A.* then being Sheriffs of *London* in due Form of Law to be executed; by Virtue of which Writ the ſaid *H. H.* and *R. A.* then being Sheriffs of *London* as aforeſaid, afterwards, and before the Return of the ſaid Writ, *to wit*, the ſame Day and Year at *London* aforeſaid, in the Pariſh and Ward aforeſaid, took and arreſted the ſaid *T.* and then and there had him in their Cuſtody in Execution for the ſaid Damages; and the ſaid *T.* being as aforeſaid in the Cuſtody of the ſaid *H. H.* and *R. A.* then being Sheriffs of *London*, in Execution for the Damages aforeſaid, the ſaid *H. H.* and *R. A.* then being Sheriffs as aforeſaid, the ſame Day and Year at *London* aforeſaid, in the Pariſh and Ward aforeſaid, without the Licence, and againſt the Will of the ſaid *W. C.* voluntarily permitted the ſaid *T.* to go out of their Cuſtody at Large where he would, the ſaid *W. C.* of his ſaid Damages then or yet not being ſatisfied, by reaſon whereof an Action accrued to the ſaid *W. C.* to demand and have of the ſaid *H. H.* and *R. A.* the ſaid Sum of Thirteen Pounds, yet the ſaid *H H.* and *R. A.* have not, nor hath either of them not rendered to the ſaid *W. C.* the ſaid Thirteen Pounds, but altogether have, and each of them hath hitherto refuſed, and yet do, and each of them doth yet refuſe to ren-

der

der the ſaid Thirteen Pounds to the ſaid *W. C.* wherefore he ſaith that he is damaged, and hath Damage to the Value of Twenty Pounds; And therefore he brings this Suit, *&c.*

Declaration on a Policy of Inſurance on the Ship being loſt.

London, *to wit*, *J. B.* late of *London* Merchant, was attached to anſwer *R. S.* of a Plea of Treſpaſs on the Caſe, *&c.* and whereupon the ſaid *R.* by *W. W.* his Attorney complains, that whereas the ſaid *R.* the Seventeenth Day of *October* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-four, at *London* (that is to ſay) in the Pariſh of St. *Mary le Bow* in the Ward of *Cheap*, according to the Uſe and Cuſtom of Merchants cauſed to be made a certain Writing of Inſurance, commonly called a Policy of Inſurance, by which ſaid Writing the ſaid *R.* by the Name of *R. S.* as well in his own Name as for and in the Name and Names of all and every other Perſon or Perſons whom the ſame did, might, or ſhould appertain in part or in all, did make Aſſurance, and cauſed himſelf and them, and every of them to be inſured, loſt, or not loſt, at and from *London* to *Rotterdam*, and thence to *Gambia* and *Cape Coaſt*, upon any Kind of Goods and Merchandizes whatſoever, loaden, or to be loaden aboard the good Ship or Veſſel called the *Dolphin*, whereof was Maſter under God for that preſent Voyage *J. N.* or whoſoever elſe ſhould go for Maſter in the ſaid Ship, or by whatſoever

ſoever other Name or Names the ſame Ship, or the Maſter thereof, was or ſhould be named or called, beginning the Adventure upon the ſaid Goods and Merchandizes from and immediately following the Loading thereof aboard the ſaid Ship at *London*, or elſewhere, and ſo ſhould continue and endure until the ſaid Ship with the ſaid Goods and Merchandizes whatſoever ſhould be arrived at *Rotterdam*, and during her Stay there and thence to *Gambia*, and during her Stay there and thence to *Cape Coaſt*, and the ſame there ſafely landed; and it ſhould be lawful for the ſaid Ship in that Voyage to ſtop and ſtay at any Ports or Places whatſoever without Prejudice to that Inſurance; the ſaid Goods and Merchandizes by that Agreement were and ſhould be valued at——without farther Account to be given by the Aſſured for the ſame. Touching the Adventures and Perils which they the Aſſurers were contented to bear, and did take upon them in that Voyage, they were of the Seas, Men of War, Fire, Enemies, Pirates, Rovers, Thieves, Jettizons, Letters of Mart and Countermart, Surprizals, Takings at Sea, Arreſt, Reſtraints and Detainments of all Kings, Princes and People, of what Nation, Condition or Quality ſoever, Barratry of the Maſter and Mariners, and of all other Perils, Loſſes and Misfortunes, that had or ſhould come to the Hurt, Detriment or Damage of the ſaid Goods and Merchandizes, or any Part there-

thereof; and in caſe of any Loſs or Miſfortune it ſhould be lawful for the Aſſured, their Factors, Servants or Aſſigns, to Sue, Labour and Travel for and about the Defence, Safe-guard, and Recovery of the ſaid Goods and Merchandizes, or any Part thereof, without Prejudice to that Inſurance, to the Charges whereof they the Aſſurers would contribute each one according to the Rate and Quantity of his Sum therein Aſſured; and it was agreed by them the Aſſurers, that that Writing or Policy of Inſurance ſhould be of as much Force and Effect as the ſureſt Writing or Policy of Inſurance thentofore made in *Lombard-ſtreet*, or in the *Royal Exchange*, or elſewhere in *London*, and ſo they the Aſſurers were contented, and did thereby promiſe, and bind themſelves each one for his own Part, their Heirs, Executors, and Goods, to the Aſſured, their Executors, Adminiſtrators and Aſſigns, for the due Performance of the Premiſſes, confeſſing themſelves paid the Conſideration due to them for that Aſſurance by the Aſſured, at and after the Rate of Three Pounds Ten Shillings *per Cent.* and in caſe of Loſs (which God forbid) the Aſſured to abate Ten Pounds *per Cent.* In Witneſs whereof they the Aſſurers have ſubſcribed their Names and Sums aſſured in *London*, as by the ſaid Writing more fully appears; of which ſaid Writing the ſaid *J.* afterwards, *to wit*, on the ſaid Seventeenth Day of *October* in the ſaid Year of our Lord one Thou-

Thouſand ſeven Hundred and Thirty-four at *London* aforeſaid, in the Pariſh and Ward aforeſaid had Notice, and thereupon the ſaid *J.* afterwards, *to wit*, on the Day and Year laſt mentioned at *London* aforeſaid, in the Pariſh and Ward aforeſaid, in Conſideration that the ſaid *R.* at the Special Inſtance and Requeſt of the ſaid *J.* had then and there paid to the ſaid *J.* the Sum of Three Pounds Ten Shillings of lawful Money of *Great Britain* (being the Reward of the Aſſurance of one Hundred Pounds) and had promiſed to perform all Things in the ſaid Writing contained on the Part of the Aſſured, to be performed for the Aſſurance of one Hundred Pounds to be made by the ſaid *J.* according to the Tenor of the ſaid Writing, he the ſaid *J.* took upon himſelf, and then and there faithfully promiſed to the ſaid *R.* to become the Aſſurer of the ſaid *R.* for one Hundred Pounds to perform all and ſingular the Things in the ſaid Writing contained to be performed on the Part of the Aſſurer, according to the true Intent and Meaning of the ſaid Writing (the ſaid Sum of one Hundred Pounds, being the Sum ſubſcribed by the ſaid *J.* to the ſaid Writing.) And the ſaid *R.* in Fact ſaith, that the ſaid Ship at the Time of the Making of the ſaid Writing, *to wit*, the ſaid Seventeenth Day of *October* in the Year one Thouſand ſeven Hundred and Thirty-four was in Safety, *to wit*, at *London* aforeſaid, in the Pariſh and Ward

Ward aforeſaid; and being ſo in Safety afterwards, *to wit*, on the Day and in the Year laſt mentioned, the ſaid Ship laſt mentioned departed and ſailed from *London* aforeſaid, in the Pariſh and Ward aforeſaid, with the ſaid Goods and Merchandizes loaded thereon, to ſail to *Rotterdam* aforeſaid, and from thence to *Gambia* and *Cape Coaſt* aforeſaid in her ſaid Voyage; and the ſaid *R.* further ſaith, that the ſaid Ship in her ſaid Voyage from *Rotterdam* aforeſaid, before her Arrival at *Cape Coaſt* aforeſaid, *to wit*, the Twenty-ninth Day of *March* which was in the Year of our Lord one Thouſand ſeven Hundred and Thirty-five, in ſailing in her ſaid Voyage with Goods and Merchandizes loaded, and then on board her to the Value of ſeven Hundred Pounds of lawful Money of *Great Britain*, upon the High Seas was burnt and deſtroyed by Fire, and the ſaid Ship and all the ſaid Goods and Merchandizes were thereby then totally loſt and deſtroyed, whereof the ſaid *J.* afterwards, on the firſt Day of *October* in the ſaid Year one Thouſand ſeven Hundred and Thirty-five, at *London* aforeſaid, in the Pariſh and Ward aforeſaid had Notice, and the ſaid *R.* then and there requeſted the ſaid *J.* to pay to him the ſaid *R.* Ninety Pounds, Parcel of the ſaid one Hundred Pounds aſſured by him the ſaid *J.* as aforeſaid (deducting Ten Pounds, the Reſidue thereof) in reſpect of the ſaid Loſs which the aforeſaid *J.* ought to have

paid to the ſaid *R.* according to the ſaid Agreement; *Yet* the ſaid *J.* not regarding his ſaid Promiſe and Undertaking, but contriving, and fraudulently intending to deceive and defraud the ſaid *R.* in this Behalf, he the ſaid *J.* (though often requeſted ſo to do) hath not paid to the ſaid *R.* the ſaid Ninety Pounds, or any Part thereof, nor hath in any kind contented him for the ſame, but hath altogether refuſed, and yet refuſes to pay to the ſaid *R.* the ſaid Ninety Pounds, or any Part thereof, or in any Manner to content him for the ſame.

A Count for Money had and received, Damages one Hundred Pounds.

Declaration on Aſſumpſit to deliver Goods according to Agreement Earneſt being given.

London, *to wit*, *J. P.* late of *Weſtminſter* in the County of *Middleſex* Chymiſt, was attached to anſwer unto *N. G.* in a Plea, *&c.* That whereas the ſaid *J.* the Twenty-ninth Day of *October* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-four at *London*, in the Pariſh of St. *Mary le Bow* in the Ward of *Cheap*, had bargained and ſold to the ſaid *N.* one Hundred Pounds Weight of fine *Turkey Rhubarb*, at the Rate of Twenty-eight Shillings *per* Pound, amounting in the Whole, according to that Rate or Price to the Sum of one Hundred and Fifteen Pounds, the ſaid *J.* the ſaid Twenty-ninth Day of *October* at *London* aforeſaid, in the Pariſh and Ward aforeſaid, in Conſideration of One Shilling of good and lawful Money

Money of *Great Britain* to him the ſaid *J.* by the ſaid *N.* then and there in Hand paid in Part of Payment, and of the Sum of one Hundred and Fourteen Pounds Nineteen Shillings to the ſaid *J.* by the ſaid *N.* to be paid on the Delivery of the ſaid one Hundred Pounds Weight of fine *Turkey Rhubarb*, he the ſaid *J.* did then and there undertake, and to the ſaid *N.* then and there faithfully promiſe to deliver the ſaid one Hundred Pounds Weight of the ſaid fine *Turkey Rhubarb* upon the Thirtieth Day of the ſaid Month of *October* abovementioned, at Three of the Clock in the Afternoon of the ſame Day at Mr. *B.*'s Coffee-houſe; *Yet* the ſaid *J.* not regarding his ſaid Promiſe and Undertaking made as aforeſaid, but contriving, and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid *N.* in this Behalf, the ſaid one Hundred Pounds Weight of fine *Turkey Rhubarb*, or any Part thereof, to the ſaid *N.* hath not delivered (although he the ſaid *N.* was *always* prepared and ready upon the Delivery of the ſaid one Hundred Pounds Weight of fine *Turkey Rhubarb* in Manner aforeſaid then and there to have paid the ſaid *J.* the one Hundred and Fourteen Pounds Nineteen Shillings, which together with the ſaid one Shilling paid by the ſaid *N.* to the ſaid *J.* as aforeſaid amount to one Hundred and Fifteen Pounds (that is to ſay) Twenty-three Shillings for every Pound Weight of the ſaid one Hundred

Pounds Weight of the ſaid fine *Turkey Rhubarb*, according to the Agreement aforeſaid) but the ſaid *J.* hath hitherto neglected and refuſed, and ſtill doth neglect and refuſe to deliver to the ſaid *N.* the ſaid one Hundred Pounds Weight of fine *Turkey Rhubarb.*

Count for Money had and received.

Declaration on Aſſumpſit to pay for a Gelding let to a 3d Perſon if he did not return it.

London, *ſſ. J. P.* late, *&c.* was attached to anſwer unto *W. C.* in a Plea of Treſpaſs on the Caſe, *&c.* and whereupon the ſaid *W.* by *R. B.* his Attorney complains, that whereas on the —— Day of —— in the Year of our Lord one Thouſand ſeven Hundred and Thirty-four, at *London* aforeſaid, in the Pariſh of St. *Mary le Bow* in the Ward of *Cheap*, in Conſideration that the ſaid *W.* at the ſpecial Inſtance and Requeſt of the ſaid *J.* would let to Hire, and deliver unto a certain Perſon then and yet unknown to the ſaid *W.* a certain Gelding of the ſaid *W.* to ride from *London* aforeſaid to *Highgate* in the County of *Middleſex*, and ſo back again to *London* aforeſaid, he the ſaid *J.* undertook, and then and there faithfully promiſed the ſaid *W.* to pay him Five Pounds and five Shillings if that Perſon did not return the ſaid Gelding to the ſaid *W.* the ſame Day; and the ſaid *W.* doth aver, that he confiding in the aforeſaid Promiſe of the ſaid *J.* afterwards; *to wit*, the ſame Day and Year aboveſaid at *London* aforeſaid, in the Pariſh and Ward aforeſaid, at the ſaid Requeſt

Requeſt of the ſaid *J.* did let to Hire, and deliver unto the ſaid Perſon ſo unknown to the ſaid *W.* the ſaid Gelding of the ſaid *W.* to ride from *London* aforeſaid to *Highgate* aforeſaid, and ſo back again to *London* aforeſaid; and that the ſaid Perſon ſo unknown to the ſaid *W.* did not on the ſame Day or at any Time afterwards, return the ſaid Gelding to the ſaid *W.* whereof the ſaid *J.* had Notice, and therefore the ſaid *J.* according to his aforeſaid Promiſe and Undertaking, ought to have paid unto the aforeſaid *W.* the ſaid Sum of Five Pounds and Five Shillings; *Yet* the ſaid *J.* not regarding his aforeſaid Promiſe and Undertaking, *&c.*

Trover by Aſſignees of Commiſſioners of Bankruptcy.

Wilts, *to wit*, *E. D.* late, *&c.* and *R. M.* late, *&c.* were attached to anſwer *J. G.* and *R. P.* Aſſignees of the Debts, Goods and Chattels of *S. L.* a Bankrupt, according to the Form of the Statutes made concerning Bankrupts, of a Plea of Treſpaſs upon the Caſe, *&c.* and whereupon the ſaid *J.* and *R.* by *S. S.* their Attorney complain, that they the ſaid *J.* and *R.* on the —Day of— in the Year of our Lord—— at *Bradford* in the ſaid County of *Wilts*, were poſſeſſed of Thirty Broad Cloths of the Value of ſix Hundred Pounds, as of their own proper Goods and Chattels (they being as aforeſaid Aſſignees of the Debts, Goods and Chattels of the ſaid Bankrupt) and being thereof ſo poſſeſſed they the ſaid *J.* and *R.* the ſaid Thirty Broad

Cloths out of their Hands and Poſſeſſion caſually loſt and miſlaid; which ſaid Thirty Broad Cloths afterwards, *to wit*, the Day and Year aforeſaid at *Bradford* aforeſaid, came to the Hands and Poſſeſſion of them the aforeſaid *E.* and *R.* by finding; and though the aforeſaid *E.* and *R.* knew the aforeſaid Cloths to be the proper Goods and Chattels of the aforeſaid *J.* and *R.* and to them as Aſſignees of the Debts, Goods and Chattels of the ſaid *S. L.* the Bankrupt of right to belong and appertain; *Yet* they the aforeſaid *E.* and *R.* contriving, and fraudulently intending the aforeſaid *J.* and *R.* of the aforeſaid Cloths to deceive and defraud have not, nor hath either of them delivered the aforeſaid Cloths, or any of them to the aforeſaid *J.* and *R.* altho' they have by them been often requeſted to deliver the ſame; But they the aforeſaid *E.* and *R.* afterwards, *to wit*, the Day and Year aforeſaid at *Bradford* aforeſaid, to their own proper Uſe did convert and diſpoſe of the aforeſaid Cloths, to the Damage of them the aforeſaid *J.* and *R.* ſix Hundred Pounds; And thereupon they bring this Suit, *&c.*

Declaration at the Suit of an Infant by his Prochein Amy *againſt a Sheriff for a falſe Return, whereby the Plt. was taken on an Attachment for a Reſcous.*

Middleſex, *to wit*, *R. W.* late of *Weſtminſter* in the County aforeſaid, Eſq; and *D. L.* late of the ſame Eſquire, late Sheriff of the County of *Middleſex*, were attached

to

to anſwer unto *J. H.* of a Plea of Treſpaſs on the Caſe, *&c.* and whereupon the ſaid *J. H.* by *J. H.* who is admitted by his Majeſty's Court here to proſecute for the ſaid *J. H.* who is within the Age of Twenty-one Years, as the next Friend of the ſaid *J. H.* complaineth, that whereas on the Twenty-third Day of *January* in the Term of St. *Hilary* in the Seventh Year of the Reign of His preſent Majeſty a Writ of His ſaid Majeſty iſſued out of His ſaid Majeſty's Court of Common Bench here, *to wit*, at *Weſtminſter* in the ſaid County, directed to the then Sheriff of *Middleſex*; by which ſaid Writ the ſaid Sheriff was commanded, that he ſhould take *J. H.* then late of St. *Giles*'s in the ſaid County Scavenger, and *J. D.* if they ſhould be found in his Bailiwick, and them ſafely keep, ſo that the ſaid Sheriff might have their Bodies before the Juſtices of His ſaid Majeſty here, *to wit*, at *Weſtminſter* aforeſaid, from the Day of *Eaſter* in Fifteen Days then next following, to anſwer *T. B.* in a Plea of Treſpaſs; and alſo that the ſaid *J.* might anſwer the ſaid *T.* according to the Cuſtom of the ſaid Court of Common Bench here, of a certain Plea of Treſpaſs on the Caſe upon Promiſe, to the Damage of him the ſaid *T.* Twenty Pounds, and that the ſaid Sheriff ſhould then have there the ſaid Writ; which ſaid Writ afterwards, and before the Return thereof, *to wit*, on the Ninth Day of *February* in the Seventh Year aforeſaid, at

Weſtminſter aforeſaid, was delivered to the ſaid *R. W.* and *D. L.* then, and until and after the Return of the ſaid Writ, being Sheriff of the ſaid County, to be executed in due Form of Law; *Yet* the ſaid *R. W.* and *D. L.* then, and until and after the Return of the ſaid Writ, being Sheriff as aforeſaid, not regarding the Duty of the ſaid Office of Sheriff of the ſaid County, but contriving, and fraudulently intending to injure and oppreſs the ſaid *J.* in this Particular, afterwards, *to wit*, at the Return of the ſaid Writ did falſely, and in Deceit of the ſaid Court here return to and upon the ſaid Writ to the Juſtices of His ſaid Majeſty here, *to wit*, at *Weſtminſter* aforeſaid, that by Virtue of his ſaid Writ to him directed, he made his Warrant directed to *S. L. J. D.* and *R. R.* his Bailiffs of the Hundred of *Oſſulſton*, jointly and ſeparately to Take and Arreſt the ſaid *J. H.* in the ſaid Writ named, by Virtue of which ſaid Warrant the aforeſaid *S. L.* afterwards, and before the Return of the ſaid Writ, *to wit*, on the Firſt Day of *April* in the Seventh Year aforeſaid, at the Pariſh of St. *Giles's in the Fields*, in the ſaid County within the ſaid Hundred of *Oſſulſton* in the ſaid Sheriffs Bailiwick, did Take and Arreſt the ſaid *J. H.* according to the Command of the ſaid Writ, and then and there kept him in ſafe Cuſtody until *E. H.* Wife of the ſaid *J. H.* and the ſaid *J.* by the Name of *J. H. &c.* and diverſe other Perſons unknown

known to the ſaid then Sheriff, and to the ſaid *S. L.* at the Pariſh of St. *Giles*'s aforeſaid, with Force and Arms in and upon the ſaid *S. L.* the ſaid then Sheriff's Bailiff aforeſaid, made an Aſſault and beat, wounded and ill-treated him, and then and there reſcued, and each and every of them did then and there reſcue the ſaid *J. H.* out of the Cuſtody of the ſaid *S. L.* the ſaid then Sheriff's Bailiff aforeſaid, againſt the ſaid then Sheriff's Will; and againſt the Will, and without the Conſent of the ſaid *S. L.* and him the ſaid *J. H.* did permit to go at large, where he pleaſed; and the ſaid *J. H.* did then and there with Force and Arms reſcue himſelf, and eſcaped out of the Cuſtody of the ſaid *S. L.* the ſaid then Sheriff's ſaid Bailiff, againſt the ſaid then Sheriff's Will, and without the Conſent of the ſaid *S. L.* againſt the Peace of the ſaid Lord the King; and afterwards and before the Return of the ſaid Writ the ſaid *J. H.* was not found in the ſaid then Sheriff's Bailiwick, and therefore the ſaid then Sheriff could not have the Body of the ſaid *J. H.* before His ſaid Majeſty's Juſtices at the Day and Place in the ſaid Writ mentioned, as by the ſaid Writ the ſaid then Sheriff was commanded, under Pretence of which falſe Return of the ſaid Writ afterwards, *to wit*, on the Twenty-third Day of *October* in *Michaelmas* Term in the Eighth Year of the Reign of His ſaid Majeſty, a Writ of His ſaid Majeſty iſſued out of His ſaid Majeſty's Court of Common

mon Bench here, *to wit*, at *Weſtminſter* aforeſaid, according to the Courſe and Uſage of the ſaid Court, directed to the now Sheriff of the ſaid County of *Middleſex*; by which Writ the ſaid now Sheriff was commanded that he ſhould not omit, becauſe of any Liberty in his ſaid County, but that he ſhould take the ſaid *E.* the ſaid Wife of the ſaid *J. H.* and the ſaid *J.* if they were to be found in the Bailiwick of the ſaid now Sheriff, and ſafely keep them ſo that the ſaid now Sheriff might have their Bodies before His ſaid Majeſty's Juſtices here, *to wit*, at *Weſtminſter* aforeſaid, from the Day of Saint *Martin* in Fifteen Days then next following, to anſwer to His ſaid Majeſty of certain Treſpaſſes, Reſcues, and Contempts certified by the ſaid *R. W.* and *D. L.* late Sheriff of the County of *Middleſex* aforeſaid to His ſaid Majeſty's Juſtices at *Weſtminſter* aforeſaid, from the Day of *Eaſter* in Fifteen Days then laſt paſt, by Virtue of which the ſaid *J.* afterwards, and before the Return of that Writ, *to wit*, on the Eleventh Day of *November* in the Eighth Year of the Reign of His ſaid Majeſty, at the ſaid Pariſh of St. *Giles's in the Fields* in the County aforeſaid, was attached, taken and impriſoned by *M.P.* and *J.S.* the ſaid now Sheriff of the ſaid County of *Middleſex* and *Kent*, in Priſon by them there for a long Time, *to wit*, from thenceforth until the Space of Thirty-three Hours then next following; And the ſaid *J.* by rea-

reaſon of the Premiſſes was obliged to appear in the ſaid Court here, *to wit*, at *Weſtminſter* aforeſaid, at the Return of the ſaid Writ, to anſwer to His ſaid Majeſty for the ſaid Treſpaſſes, Reſcues and Contempts as aforeſaid, returned according to the Exigence of the ſaid Writ laſt above mentioned, and thereupon he the ſaid *J. H.* with one *R. J.* and *W. L.* afterwards, *to wit*, on the Twenty-ſecond Day of *November* in the Term of St. *Michael* in the ſaid Eight Year of the Reign of His ſaid Majeſty, in His ſaid Majeſty's Court here, entered into a Recognizance in the ſaid Court here, for the perſonal Appearance of the ſaid *J. H.* from the Day of St. *Martin* in Fifteen Days then next following, to anſwer all ſuch Matters as ſhould be then and there objected againſt the ſaid *J. H.* and eſpecially for his Contempt on the Reſcous of the ſaid *J. H.* returned by the ſaid *R. W.* and *D. L.* the ſaid late Sheriff of *Middleſex* aforeſaid, and ſo from Day to Day till the ſaid *J. H.* ſhould be diſcharged by the ſaid Court, and not depart the ſaid Court without Leave of the ſame Court; whereas the ſaid *J. H.* in fact ſays, that he is in no wiſe guilty of the ſaid ſuppoſed Reſcous and Contempt lately returned againſt him as aforeſaid, by reaſon of which falſe Return of the ſaid Writ above mentioned ſo made by the ſaid *R. W.* and *D. L.* then Sheriff as aforeſaid, the ſaid *J. H.* not only bore and ſuſtained a long Impriſonment as

as aforesaid, but he hath been put unto divers great Costs and Expences, amounting in the Whole to a great Sum, *to wit*, to the Sum of Forty Pounds, to the Damage of the said *J. H.* Ninety Pounds; therefore he bringeth his Suit, *&c.*

Declaration in Case for unskilfully Managing a Ship whereby she ran against a Lighter and damaged Plt's Goods therein.

London, *to wit*, *H. G.* late, *&c.* Mariner, was attached to answer to *T. H.* in a Plea of Trespass upon the Case, and whereupon the said *T.* by *G. N.* his Attorney complains, that whereas the said *T.* on the Twenty-eighth Day of *December* in the Year of our Lord one Thousand seven Hundred and Thirty-five, at *London* aforesaid, was possessed of divers Goods and Merchandizes, *to wit*, of one Thousand Baskets of *Denia* Raisins, of the Value of three Hundred and Sixty Pounds, then laden on Board a certain Lighter then being in the River *Thames*, and then moored at a certain Key adjoining to the said River *Thames* at *London* aforesaid; And whereas the said *H.* upon the said Twenty-eighth Day of *December* in the said Year of our Lord one Thousand seven Hundred and Thirty-five, at *London* aforesaid, was possessed of, and Master of a certain Ship or Vessel called the *Mary*, then being in the said River *Thames* near the said Key, yet the said *H.* not being ignorant of the Premisses, but devising, and maliciously intending to hurt and injure the said *T.* in this Behalf, upon the same Day and Year above mentioned at *London* aforesaid, so ill,

ill, unskilfully and negligently managed, governed and directed his ſaid Ship or Veſſel, that for want of good Care and Management of the ſaid *H.* of his ſaid Ship or Veſſel, the ſaid Ship or Veſſel of the ſaid *H.* then and there preſſed againſt the ſaid Lighter, and broke one of the Sides of the ſaid Lighter, whereby the Water then and there flowed into the ſaid Lighter ſo laden with the ſaid Raiſins as aforeſaid, and very much damaged and ſpoiled the ſaid Raiſins ſo laden therein, whereby he ſays he is prejudiced, and hath Damage to the Value of one Hundred Pounds; And thereupon he brings his Suit, and ſo forth.

Declaration againſt an Innkeeper for loſing a Horſe of his Gueſt.

Yorkſhire, *to wit*, *W. J.* Innkeeper of a common Inn in *Cloughton* in the County aforeſaid, was attached to anſwer *W. K.* of a Plea of Treſpaſs upon the Caſe, whereupon the ſaid *W. K.* by *J. U.* his Attorney complains, that whereas by the Law and Cuſtom of this Realm of *England*, Innkeepers who keep common Inns to entertain Travellers paſſing along the Country where are ſuch common Inns, and as Gueſts lodging in the ſame Inns ſafely and ſecurely by Night and Day are bound to keep without any Loſs or Diminution their Goods and Chattels being within the ſaid Inns, ſo that by Default of ſuch Innkeepers or of their Servants no Damage may in any wiſe happen to ſuch Gueſts; And alſo whereas the ſaid *W. J.*

on, and long before the Seventh Day of *November* in the Ninth Year of the Reign of the Lord the now King, and on the Firſt Day of *November* aforeſaid did hold and keep, and yet doth hold and keep a common Inn in *C.* aforeſaid, in the County aforeſaid; and the ſaid *W. K.* the ſaid Seventh Day of *November* in the ſaid Inn as a Gueſt did lodge, the ſaid *W. K.* then and there in the ſaid Inn having with him a certain Mare of the ſaid *W. K.* of the Price of Five Pounds, yet certain Miſdoers unknown to the ſaid *W. K.* the ſaid Seventh Day of *November* at *C.* aforeſaid in the County aforeſaid, in Default of due Keeping of the ſaid *W. J.* and his Servants the Mare of the ſaid *W. K.* then and there put and placed in the ſaid Inn, under the Cuſtody of the ſaid *W. J.* in the ſaid Inn of the ſaid *W. J.* by the ſaid *W. K.* a Gueſt of the ſaid *W. J.* in the ſaid Inn took and carried away, and her detained from the ſaid *W. K.* againſt the Will of the ſaid *W. K.* for a long Time, *to wit*, for the Space of one Month, and then and there did her beat, bruiſe and lame, ſo that ſhe became of no Value, and other Injuries to him did, to the great Damage of the ſaid *W. K.* and againſt the ſaid Law and Cuſtom. *And alſo whereas* by the Law and Cuſtom of this Realm of *England*, all Innkeepers, who keep common Inns to entertain Travellers paſſing along the Country where ſuch Inns are, and as Gueſts lodging in ſuch Inns, all their Goods

Goods and Chattels, and alſo the Goods and Chattels being in the lawful Cuſtody of ſuch Gueſts, being in the ſaid Inns Night and Day, are bound to keep without Loſs or Diminution, ſo that for Default of ſuch Innkeepers or their Servants no Damage may in any wiſe happen to ſuch Gueſts, or to the Goods and Chattels which are in the lawful Cuſtody of ſuch Gueſts within the ſaid Inns; And whereas the ſaid *W. J.* on, and long before the Seventh Day of *November* in the Ninth Year of the Reign of the Lord the now King, and on the Firſt Day of *November* aforeſaid in the ſame Year, in his ſaid Inn at *C.* aforeſaid in the County aforeſaid, in his ſaid Inn did lodge the ſaid *W. K.* as his Gueſt, the ſaid *W. K.* then and there having in his lawful Cuſtody another Mare of *H. H.* then and there being the proper Mare of the ſaid *H. H.* of the Price of Five Pounds, by the ſaid *H. H.* to the ſaid *W. K.* before that Time there lent, ſafely to be redelivered to the ſaid *H. H.* yet certain Miſdoers unknown to the ſaid *W. K.* the ſaid Seventh Day of *November* at *C.* aforeſaid in the County aforeſaid, in Default of due Keeping of the ſaid *W. J.* and his Servants the ſaid laſt mentioned Mare then and there put and placed under the Cuſtody of the ſaid *W. J.* in the ſaid Inn of the ſaid *W. J.* by the ſaid *W. K.* a Gueſt in the ſaid Inn of the ſaid *W. J.* took and carried away, and her there detained from the ſaid *W.*

K. for a long Time, *to wit*, the Space of Eleven Days, and her then and there beat, bruiſed and lamed, ſo that ſhe became of no Value, by reaſon whereof the ſaid *W. K.* paid the ſaid *H. H.* a great Sum of Money, *to wit*, one and Twenty Shillings, in Satisfaction of the Injury done to the ſaid Mare; and he the ſaid *W. J.* other Injuries did to the ſaid *W. K.* to the great Damage of the ſaid *W. K.* and againſt the ſaid Law and Cuſtom; Whereupon the ſaid *W. K.* ſaith that he is injured, and hath Damage to the Value of Ten Pounds; And thereupon he brings this Suit, *&c.*

Declaration in Treſpaſs for Entring and Hunting in a Chaſe or Warren and killing Game.

Cumberland, *to wit*, *F. T.* late, *&c.* was attached to anſwer *W. H.* in a Plea wherefore he with Force and Arms entered into a free Chaſe of the ſaid *W.* at *M.* in the County aforeſaid, and without his Licenſe and Conſent in the ſame did hunt, and did take, kill and carry away Hares, Conies, Pheaſants and Partridges; And alſo wherefore he with Force and Arms entered into the free Warren of the ſaid *W.* at *M.* aforeſaid, and without his Licenſe and Conſent there did hunt, and take, kill and carry away other Hares, Conies, Pheaſants and Partridges, and other Injuries to him did, to the great Damage of the ſaid *W.* and againſt the Peace of our Lord the King; And whereupon the ſaid *W.* by *T. B.* his Attorney complains, that the aforeſaid *F.* on the — Day

—— Day of —— in the —— Year of the Reign of His preſent Majeſty, and on divers other Days and Times between that Day and the firſt Day of *March* in the ——Year of the Reign of His ſaid Majeſty, with Force and Arms, *&c.* entered into the free Chaſe of the ſaid *W.* at *M.* aforeſaid, and without his Licence and Conſent did in the ſame hunt, and did take, kill and carry away Hares, *to wit*, Twenty Hares, Conies, *to wit*, Forty Conies, Pheaſants, *to wit*, Twenty Pheaſants, and Partridges, *to wit*, Twenty Partridges; And alſo that the ſaid *F.* on the ſaid ſeveral Days and Times aforeſaid, with Force and Arms, *&c.* entered into the free Warren of the ſaid *W.* at *M.* aforeſaid, and without his Licence and Conſent there did hunt, and did take, kill and carry away other Hares, *to wit*, Twenty other Hares, Conies, *to wit*, Forty other Conies, Pheaſants, *to wit*, Twenty other Pheaſants, and Partridges, *to wit*, Twenty other Partridges, and other Injuries, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* whereupon the ſaid *W.* ſaith that he is prejudiced, and hath received Damage to the Value of Twenty Pounds; And thereupon he bringeth Suit, *&c.*

Declaration in Caſe for Detaining Pl't's Apprentice.

Derbyſhire, *to wit*, *W. L.* late, *&c.* was attached to anſwer *J. T.* of a Plea of Treſpaſs upon the Caſe, *&c.* and whereupon the ſaid *J.* by *W. W.* his Attorney com-

plains, that whereas *W.* the Son of *W. M.* of, *&c.* by his certain Indenture bearing Date the ——— Day ——— in the Year of our Lord —— at —— aforesaid, was justly and lawfully retained in the Service of him the said *J.* after the Manner of an Apprentice, to be instructed in the Art of a Cutler, which the aforesaid *J.* then used, until the End and Term of Nine Years from thence next ensuing and fully to be complete and ended. And the same *W. M.* the Son served for the Space of Three Years and upwards next after the said —— Day of ——— in the Year aforesaid, in the Service of him the said *J.* in his Art aforesaid as an Apprentice; Nevertheless the aforesaid *W. L.* not ignorant of the Premisses, but contriving craftily and subtilly to deceive and defraud him the said *J.* of the Service of his said Apprentice, and of all Profit, Advantage and Gain, which he the said *J.* by reason of his Apprentice aforesaid should and might have and gain, afterwards during the said Term of Nine Years, *to wit*, on the First Day of *July* in the Year of our Lord ——— at —— aforesaid in the said County, knowing the aforesaid *W. M.* the Son to be the Apprentice of him the said *J.* did wrongfully intice and procure him the said *W. M.* the Son to depart from the said Service of him the said *J.* which said Apprentice of the said *J.* afterwards, *to wit*, the same Day and Year, by reason of the said Inticements and Procurements

of

of the ſaid *W. L.* without any reaſonable or probable Cauſe whatſoever left the Service of the ſaid *J.* his Maſter, and abſented himſelf from his ſaid Service for a long Time, *to wit*, for a Month then next following, and the ſaid *W. L.* injuriouſly detained and kept him the ſaid *W. M.* the Son from his Service aforeſaid during that Time, againſt the Will of the ſaid *J. to wit*, at —— aforeſaid, whereby the ſaid *J.* for all that Time loſt the Service of his Apprentice aforeſaid; *And whereas* the ſaid *W. M.* the Son, afterwards, and during his ſaid Apprenticeſhip, *to wit*, on the Second Day of *Auguſt* in the Year of our Lord ——— without any reaſonable Cauſe or juſt Pretence abſented himſelf from the Service of his ſaid Maſter, *to wit*, at —— aforeſaid; Nevertheleſs the ſaid *W. L.* well knowing the Premiſſes, but contriving and intending further to injure the ſaid *J.* and to deprive him of the further Uſe, Service and Benefit of his ſaid Apprentice *W. M.* the Son, afterwards, *to wit*, on the ſaid Second Day of *Auguſt* in the Year of our Lord —— aforeſaid, at —— aforeſaid, againſt the Will of the ſaid *J.* injuriouſly received the ſaid *W. M.* the Apprentice into his Service, and detained and kept him from the Service of the ſaid *J.* his Maſter for a long Time, *to wit*, from thenceforth until the Firſt Day of *January* then next following, whereby the ſaid *J.* for all that Time loſt the Service of his ſaid Apprentice, to the

Damage of the ſaid *J.* of Forty Pounds; And thereupon he brings Suit, *&c.*

Declaration for Taking and Detaining Plt's Wife.

Herefordſhire, *to wit*, *R. S.* was attached to anſwer *W. B.* Gentleman, of a Plea, wherefore he took *S.* the Wife of the ſaid *W.* and keeps her taken, *&c.* and whereupon the ſaid *W.* by *J. C.* his Attorney complains, that the ſaid *R.* on the Firſt Day of *June* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-four, at the Pariſh of *Bodenham* in the County aforeſaid, took the ſaid *S.* the Wife of the ſaid *W.* and keeps her yet taken, whereby he ſays that he is prejudiced and damnified to the Value of five Hundred Pounds; And thereupon he brings Suit, *&c.*

Declaration for Carrying away Plt's Wife, Goods and Chattels.

Suffolk, *to wit*, *M. W.* late, *&c.* Malſter, was attached to anſwer to *S. F.* Gent. in a Plea, wherefore with Force and Arms he took and carried away *T.* the Wife of the ſaid *S.* together with the Goods and Chattels of the ſaid *S.* of the Value of five Hundred Pounds, found at *Stowmarket* aforeſaid, and detained the ſaid *T.* the ſaid Wife of the ſaid *S.* there from the ſaid *S.* a long Time, whereby the ſaid *S.* loſt the Aid, Comfort, Fellowſhip, Service and Aſſiſtance of his ſaid Wife, and detained for a long Time the ſaid Goods and Chattels, and doth ſtill detain the ſame, and did other Wrongs to the ſaid *S.* to the great Damage of the ſaid *S.* and againſt the Peace

Peace of His preſent Majeſty, &c. And whereupon the ſaid *S.* by *T. K.* his Attorney complains, that the ſaid *M.* on the Fifteenth Day of *May* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-three, at *S.* aforeſaid, in the County aforeſaid, with Force and Arms, &c. took and carried away the ſaid *T.* then and now the Wife of the *S.* together with the Goods and Chattels of the ſaid *S. to wit*, a Gold Watch, a Gold Watch-Chain and Picture ſet in Gold, one Pair of Ear-Rings of Gold ſet with Diamonds, two other Gold Rings, four Gowns, four Petticoats, one Cloth Cloak, one Velvet Hood, twenty Holland Shifts, two Head-dreſſes of Lace, and two other Head-dreſſes of Cambrick and Lace, of the Value, &c. found at *S.* aforeſaid; and detained the ſaid *T.* the ſaid Wife of the ſaid *S.* there from the ſaid *S.* a long Time, *to wit*, from the ſaid Fifteenth Day of *May* in the ſaid Year of our Lord one Thouſand ſeven Hundred and Thirty-three, until the Eighteenth Day of *October* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-five, whereby the ſaid *S.* during all that Time loſt the Aid, Comfort, Fellowſhip, Service and Aſſiſtance of his ſaid Wife; and alſo during all the Time aforeſaid detained the ſaid Goods and Chattels, and doth ſtill detain the ſame, and did other Wrongs, &c. to the great Damage, &c. and againſt the Peace, &c. whereby the ſaid *S.* ſays that

he is injured, and hath Damage to the Value of two Thouſand Pounds; And thereupon he brings Suit, *&c.*

Declaration for carnally Knowing Plt's Wife.

Devon, *to wit*, *G. F.* late, *&c.* was attached to anſwer *E. F.* of a Plea, wherefore with Force and Arms he made an Aſſault upon *M.* the Wife of the ſaid *E.* at *K.* in the ſaid County, and her the ſaid *M.* debauched, abuſed, carnally Knew and got with Child, whereby the ſaid *E.* for a long Time loſt the Comfort and Affection, and alſo the Counſel, Aſſiſtance and Service of his ſaid Wife in his domeſtic Affairs, and did him other Wrongs, to the great Damage of the ſaid *E.* and againſt the Peace of our Lord the King, *&c.* And whereupon the ſaid *E.* by *T. W.* his Attorney complains, that the ſaid *G.* upon the Eleventh Day of *November* one Thouſand ſeven Hundred and Thirty-two, and at diverſe other Days and Times between that Day and the Fourth Day of *October* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-three, with Force and Arms made an Aſſault upon *M.* then the Wife of the ſaid *E.* at *K.* aforeſaid in the County aforeſaid, and her the ſaid *M.* then and there debauched, abuſed, carnally Knew and got her with Child, whereby the ſaid *E.* for all the Time aforeſaid loſt the Comfort and Affection, and alſo the Counſel and Aſſiſtance, and Service of his ſaid Wife in his domeſtic Affairs, and did him other Wrongs,

Wrongs, to the great Damage of the ſaid *E.* and againſt the Peace, *&c.* Whereupon he ſays he is injured and hath Damage to the Value of one Thouſand Pounds; And thereupon he brings this Suit, *&c.*

Declaration in Caſe for Dilapidations in not Repairing Chancel, &c.

Glouceſterſhire, *to wit*, *P. L.* late, *&c.* late Rector of the Pariſh Church of *B.* in the ſaid County of *G.* was attached to anſwer to *W. A.* Clerk, now Rector of that Church, in a Plea of Treſpaſs on the Caſe, *&c.* and whereupon the ſaid *W. A.* by *T. M.* his Attorney complains, that whereas all and ſingular Rectors of Churches within that Part of His Majeſty's Kingdom of *Great Britain* called *England*, for the Time being, ought by Law well and ſufficiently to Repair, Support and Suſtain the Chancels of their Churches, and the Walls and Fences of their Church-Yards, and all and ſingular the Houſes, Edifices, Buildings and Structures of and belonging to their Rectories, and the Walls and Fences of their Glebe Lands thereof, and relinquiſh, yield up, and leave the ſame without any Dilapidations, or want of Reparation whatſoever, to their Succeſſors, Rectors of ſuch Churches, and in Default thereof are bound and ought to pay and ſatisfy their Succeſſors the full and true Value of ſuch Dilapidations and want of Reparations. *And whereas* the ſaid *P.* was heretofore lawfully inſtituted, and inducted into the

ſaid Rectory and Pariſh Church of *B.* and on the Firſt Day of *November* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-three, was the lawful Rector thereof, and in Right of the ſaid Rectory was ſeiſed of a Manſion-Houſe, called the Parſonage-Houſe in the ſaid Pariſh of *B.* with the Barns, Stables, Out-Houſes, Edifices, Buildings, Yards, Courts, Gardens and Appurtenances thereunto belonging; and alſo of ſeveral Pieces or Parcels of Glebe Land, Parcel of the ſaid Rectory, and ſo continued until ſuch Time as hereinafter is mentioned, and afterwards, *to wit*, on the Twenty-fifth Day of the ſaid Month of *November* in the ſaid Year of our Lord one Thouſand ſeven Hundred and Thirty-three, freely reſigned the ſaid Rectory and Pariſh Church into the Hands of *E.* late Lord Biſhop of *G.* deceaſed, then Ordinary of that Place, and thereupon the ſaid Church being vacant by Means of ſuch Reſignation; And the ſaid *W. A.* afterwards, *to wit*, the Eighteenth Day of *December* in the Year aforeſaid, was upon ſuch Vacancy duly preſented to the ſaid Church, and admitted, inſtituted and inducted into the ſame, and became, and hath continued, and now is the lawful Rector of the ſaid Church, and the next Succeſſor of the ſaid *P.* and the ſaid *W. A.* in Fact ſays, that at the ſaid Time of the Reſignation of the ſaid Rectory and Pariſh Church by the ſaid *P.* the Chancel

of

of the ſaid Pariſh Church, and the Walls and Fences of the Church-Yards thereof, and the ſaid Manſion or Dwelling-Houſe, called the Parſonage-Houſe, Part of and belonging to the ſaid Rectory, the Brew-houſe thereto adjoining, the Barn, the Stables, the Coach-Houſe, Cart-Houſe, the Granary, the Neceſſary-Houſe, the Chicken-Houſe, and other Out-Houſes, Edifices, and Buildings belonging to the ſaid Manſion-Houſe, the Mound-Walls round the Garden and Courts likewiſe belonging to the ſame Houſe, the ſtone Steps in the ſaid Garden, and the Rails on each Side of ſuch Steps, and alſo the Walls and Fences of the Glebe Lands, Part alſo of the ſaid Rectory, were very Ruinous, and greatly Dilapidated, and in Decay for want of Repairs, and were ſo left by the ſaid *P.* when he reſigned the ſaid Rectory and Church as aforeſaid, *to wit*, on the Twenty-fifth Day of *November* in the ſaid Year of our Lord one Thouſand ſeven Hundred and Thirty-three. And the ſaid *W. A.* further ſaith, that the Sum of Money neceſſary to be expended, and laid out for the neceſſary Repairs of the ſaid Premiſſes amounts unto, and at the Time of the ſaid Reſignation of the ſaid Rectory and Pariſh Church by the ſaid *P.* amounted to two Hundred Pounds of lawful Money of *Great Britain*, of which the ſaid *P.* afterwards, *to wit*, on the Twentieth Day of the ſaid Month of *Decem-*

December in the ſaid Year one Thouſand ſeven Hundred and Thirty-three, at *B.* aforeſaid, had Notice; *Neverthelefs* the ſaid *P.* intending to defraud the ſaid *W.* in this Behalf, the ſaid Sum of two Hundred Pounds, or any Part thereof, or any other Sum of Money ſufficient for the neceſſary Reparation of the ſaid Premiſſes, ſo left by the ſaid *P.* dilapidated, and in ſuch a ruinous Condition for want of Repairs as aforeſaid, to the ſaid *W.* hath not paid or ſatisfied, although the ſaid *P.* was afterwards, *to wit*, the ſaid Twentieth Day of *December* in the Year laſt above mentioned, at the ſaid Pariſh of *B.* in the ſaid County of *G.* requeſted by the ſaid *W.* ſo to do; but the ſaid *P.* has hitherto refuſed and ſtill refuſes to pay or ſatisfy the ſame, or any Sum of Money whatſoever to the ſaid *W.* for ſuch Want of Repairs and Dilapidations as aforeſaid, to the Damage of the ſaid *W.* of two Hundred Pounds; And thereupon he brings Suit, *&c.*

Declaration in Prohibition.

Northamptonſhire, *to wit*, *T. K.* late, *&c.* was attached to anſwer to *R. B.* who proſecutes in this Behalf as well for the King as for himſelf in a Plea, why he the ſaid *T.* has followed a Plea againſt the ſaid *R.* in the Spiritual Court againſt the King's Prohibition, *&c.* and whereupon the ſaid *R.* who as well, *&c.* by *T. S.* his Attorney complains, that whereas the Pariſh of *Towceſter* aforeſaid is, and from the Time beyond

yond the Memory of Man was an ancient Pariſh, within which Pariſh for all that Time there was and is an ancient Pariſh Church; And whereas he the ſaid *R. B.* now is, and for diverſe Years laſt paſt was ſeiſed in his Demeſne as of Fee of and in an ancient Meſſuage, with the Appurtenances, in the Pariſh of *Towceſter* aforeſaid, now or late in the Tenure or Occupation of *L. R.* and he the ſaid *R. B.* and all thoſe whoſe Eſtates he had and hath of and in the ſaid Meſſuage, with the Appurtenances, from Time beyond the Memory of Man have at their own Coſts repaired one Seat or Form in the ſaid Church, which Seat or Form has been lately taken in and made Parcel of a Pew in the ſaid Church, and therefore have had and uſed for themſelves and Family inhabiting in the ſaid Meſſuage the ſole and ſeparate Uſe of the ſaid Seat or Form for the Hearing and Attending of Divine Service in the ſaid Church. *And whereas* all Pleas and Suits of and concerning Cuſtoms and Preſcriptions within this Realm, and the Cognizance of ſuch Pleas and Suits, ſpecially belong and appertain to His Majeſty and his Royal Crown, and not to the Court Chriſtian, and by the Common Law of the Land of this Kindom of *England*, and not by the Eccleſiaſtical Laws or Cenſures ought to be tried, determined and diſcuſſed, and always hitherto were wont and ought; Nevertheleſs the ſaid *T. K.* well knowing the Premiſſes, but contriving unjuſtly

juſtly to grieve the ſaid *R. B.* and to diſherit His ſaid Majeſty and His Royal Crown, and to bring the Cognizance of a Plea which ſpecially belongs to His preſent Majeſty and His Royal Crown to another Sort of Trial in the Court Chriſtian before the Venerable *G. R.* Doctor of Laws, lawfully deputed Vicar General in Spirituals, and principal Official of the Reverend Father in Chriſt and Lord *R.* by Divine Permiſſion Biſhop of *Peterborough*, or his Surrogate, has impeached and controverted his Suit, the Right, Title and Poſſeſſion of the ſaid *R. B.* to the ſaid Seat or Form, now Parcel of the ſaid Pew; And although the ſaid *R. B.* hath pleaded and alledged all and ſingular the Matters above by him here ſuggeſted in the ſaid Court Chriſtian before the ſaid Spiritual Judge, in Maintenance of his ſaid Right and Poſſeſſion of the ſaid Seat or Form in the ſaid Pew, and offered to prove the ſame by inevitable Teſtimony; *Yet* the ſaid Spiritual Judge wholly refuſed to admit the ſaid Allegation and Proof, and the ſaid *T. K.* endeavours, and daily contrives to cauſe the ſaid *R. B.* to be condemned in the Premiſſes in the ſaid Court Chriſtian, before the ſaid Spiritual Judge, in Contempt of His ſaid preſent Majeſty, and to the manifeſt Damage, Prejudice, Impoveriſhment, and Grievance of the ſaid *R. B.* and againſt the Common Law of *England*. And although the ſaid *R.* afterwards, *to wit*, on the Twentieth Day of *Janu-*

January in the Year of our Lord one Thouſand ſeven Hundred and Thirty-three, at the Pariſh aforeſaid, delivered to the ſaid *T. K.* the King's Writ of Prohibition to the contrary thereof; Nevertheleſs the ſaid *T. K.* hath not ceaſed to follow his ſaid Suit in the ſaid Spiritual Court, but has ſince that Time proſecuted and ſtill proſecutes his ſaid Suit there, notwithſtanding the ſaid Writ of Prohibition ſo delivered to him as aforeſaid, in Contempt of His ſaid Majeſty, and to the great Damage and Grievance of the ſaid *R.* and againſt the ſaid Prohibition; Whereupon the ſaid *R.* who as well, *&c.* ſaith that he is injured, and hath Damage to the Value of Forty Pounds; And thereupon he as well for the King as for himſelf brings Suit, *&c.*

Declaration in Debt for Rent reſerved by Indentures, at the Suit of the Heir.

Weſtmorland, *A. B.* late, *&c.* was ſummoned to anſwer *C. D.* Son and Heir at Law of *E. D.* deceaſed, of a Plea, that he render to him Fourteen Pounds of lawful Money of *Great Britain*, which he owes to, and unjuſtly detains from him, *&c.* and thereupon the ſaid *C.* by *W. R.* his Attorney ſaith, that whereas the ſaid *E.* in his Life-time, *to wit*, on the Twenty-fourth Day of *January* in the Year of our Lord one Thouſand ſeven Hundred and Twenty-ſix, at *Kirby K.* aforeſaid, by a certain Indenture then and there made between the ſaid *E.* by the Name of —— (*as in the Leaſe*) of the one Part,

and the ſaid *A.* by the Name of —— (*as in the Leaſe*) of the other Part, the other Part of which Indenture, ſealed with the Seal of the ſaid *A.* the ſaid *C.* brings here into Court, the Date whereof is the ſame Day and Year, demiſed, leaſed, ſet, and to Farm let unto the ſaid *A.* his Executors, Adminiſtrators and Aſſigns, all his the ſaid *E.*'s Burgage Houſe, Meſſuage and Tenement, ſituate, ſtanding, and being at or near *Strickland Gate End*, (*ſo recite the Parcels as in the Leaſe*) To have and to hold the ſaid Burgage Houſe, Meſſuage and Tenement, Barn, *&c.* and all and ſingular other the Premiſſes by the ſaid Indenture demiſed, with the Appurtenances, (except before excepted) unto the ſaid *A.* his Executors, Adminiſtrators and Aſſigns, from the Second Day of *February* next enſuing the Day of the Date of the ſaid Indenture, for and during and unto the full End and Term of Twenty-one Years from thence next enſuing, and fully to be complete and ended; yielding and paying therefore yearly and every Year, during the ſaid Term unto the ſaid *E.* his Heirs and Aſſigns, the yearly Rent or Sum of Fourteen Pounds of lawful Money of *Great Britain*, at Two Days or Times of Payment in the Year; that is to ſay, at *Whitſuntide* and St. *Martin* the Biſhop in Winter, by even and equal Portions; the firſt Payment to begin and be made at *Whitſuntide* then next enſuing, as by the ſaid Indenture may more fully appear; by Virtue

tue of which ſaid Demiſe the ſaid *A.* entered into the ſaid demiſed Premiſſes with the Appurtenances (except before excepted) and was poſſeſſed thereof for the Term thereof demiſed as aforeſaid, the Reverſion thereof with the Appurtenances belonging to the ſaid *E.* his Heirs and Aſſigns; and being ſo poſſeſſed the Reverſion thereof belonging as aforeſaid to the ſaid *E.* afterwards, *to wit*, the Firſt Day of *April* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-three, at *K.* aforeſaid died ſeiſed of ſuch his Eſtate of and in the ſaid Reverſion, at whoſe Death the ſaid Reverſion with the Appurtenances deſcended to the ſaid *C.* as Son and Heir of the ſaid *E.* whereby the ſaid *C.* became, and was ſeiſed of and in the ſaid Reverſion with the Appurtenances; and being ſo ſeiſed, and the ſaid *A.* being ſo poſſeſſed of the ſaid demiſed Premiſſes with the Appurtenances, Fourteen Pounds of the Rent aforeſaid, for one Year ending at the Feaſt of St. *Martin* the Biſhop in Winter, in the Year of our Lord one Thouſand ſeven Hundred and Thirty-four to the ſaid *C.* from the ſaid *A.* became in Arrear and ſtill remain unpaid, whereby an Action hath accrued to the ſaid *C.* to demand and have of the ſaid *A.* the ſaid Fourteen Pounds, yet the ſaid *A.* (although often requeſted) hath not yet paid the ſaid Fourteen Pounds, or any Part thereof, to the ſaid *C.* but to pay the ſame to him hitherto altogether hath and ſtill doth

refuſe, to the Damage of the ſaid *C.* Ten Pounds; And therefore he bringeth Suit, *&c.*

Declaration in Debt for Rent reſerved by Indenture againſt the Aſſignee of the Leſſee.

Middleſex, *to wit*, *J. L.* late of *Tottenham* in the ſaid County, Eſq; Aſſignee of *J. S.* Eſq; otherwiſe lately called *J. S.* ſenior, of *London*, Eſq; was ſummoned to anſwer *G. B.* Eſq; in a Plea, that he render to him Six Pounds Twelve Shillings and Six Pence, which he owes to him and unjuſtly detains, *&c.* and whereupon the ſaid *G.* by *E. B.* his Attorney ſays, that whereas by a certain Indenture made at *Tottenham* aforeſaid, on the Seventeenth Day of *May* in the Year of our Lord one Thouſand ſeven Hundred and Sixteen, between the ſaid *G.* by the Name of *G. B.* of *Leatherhead* in the County of *Surrey*, Eſq; of the one Part, and the ſaid *J. S.* by the Name of *J. S.* ſenior, of *London*, Eſq; of the other Part, the Counterpart of which Indenture ſealed with the Seal of the ſaid *J.* the ſaid *G.* brings here into Court, bearing Date the ſame Day and Year, for the Conſideration therein mentioned he the ſaid *G.* did demiſe, grant, and to Farm let unto the ſaid *J. S.* all that Manſion-Houſe, Meſſuage, Tenement, Waſh-Houſes, Stables, Out-Houſes, Yards, Gardens, Orchard, Fiſh-Pond, or Canal, with the Appurtenances, which were then lately in the Tenure or Occupation of *R. C.* his Undertenants or Aſſigns; And which ſaid Manſion-Houſe and Premiſſes abutted Eaſtward on

on a Field called *Royal Field*, belonging to *T. M.* of *London* Goldſmith, Weſtward on *Tottenham* High Road, Northward on a Barn and Orchard belonging to the ſaid *G. B.* in the Tenure or Occupation of the ſaid *W. B.* and Southward on a Garden belonging to the ſaid *G. B.* in the Tenure or Occupation of *W. B.* and alſo that little Meſſuage and Tenement built upon the Wall belonging to the ſaid Manſion-Houſe, fronting alſo upon the High Road of *Tottenham* aforeſaid, then alſo in the Tenure or Occupation of the ſaid *W. B.* his Under-tenants or Aſſigns, together with all Ways, Eaſements, Water-Courſes, Commodities and Appurtenances whatſoever to the ſaid Manſion-Houſe, Meſſuages or Tenements belonging or in any wiſe appertaining; all which ſaid Premiſſes are ſituate and being in the Pariſh of *Tottenham High Croſs* in the County of *Middleſex*; To have and to hold the ſaid Manſion-Houſe, Meſſuages or Tenements, Waſh-Houſes, Stables, Out-Houſes, Yards, Gardens, Orchards, Fiſh-Pond or Canal, and all other the Premiſſes, with their and every of their Appurtenances above by the ſaid Indenture demiſed and granted unto the ſaid *J.* his Executors, Adminiſtrators and Aſſigns, from the Feaſt-Day of the Annunciation of the Bleſſed Virgin *Mary* laſt paſt before the Date of the ſaid Indenture, for and during and unto the full End and Term of Twenty-one Years from thence next enſuing and fully to be com-

plete and ended; yielding and paying therefore yearly and every Year during the ſaid Term unto the ſaid *G.* his Heirs and Aſſigns the yearly Rent or Sum of Twenty-ſix Pounds and Ten Shillings of lawful Money of *Great Britain*, on the Four Feaſt-Days or Terms of Payment in the Year moſt uſual, that is to ſay, at the Feaſt of the Nativity of St. *John* the Baptiſt, St. *Michael* the Archangel, the Birth of our Lord Chriſt, and the Annunciation of the Bleſſed Virgin *Mary*, by even and equal Portions; the firſt Payment thereof to begin and to be made upon the Feaſt-Day of St. *John* the Baptiſt next enſuing the Date of the ſaid Indenture, as by the ſaid Indenture more fully appears; by Virtue of which Demiſe the ſaid *J.* entered into the ſaid demiſed Premiſſes with the Appurtenances, and was poſſeſſed thereof; and being ſo poſſeſſed thereof, afterwards, *to wit*, on the Firſt Day of *April* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-four, all the ſaid Eſtate, Right, Title, Intereſt and Term of Years of the ſaid *J.* then to come and unexpired, of and in the ſaid demiſed Premiſſes with the Appurtenances, by an Aſſignment came to the ſaid *J. L.* by Virtue of which Aſſignment the ſaid *J. L.* entered into the ſaid demiſed Premiſſes with the Appurtenances, and was poſſeſſed thereof until the Expiration of the ſaid Term of Twenty-one Years, *to wit*, until and upon the Feaſt of the Annunciation of the Bleſſed Virgin *Mary*

in

in the Year of our Lord one Thouſand ſeven Hundred and Thirty-ſeven, and Six Pounds Twelve Shillings and Six Pence of the Rent aforeſaid, for the laſt Quarter of a Year of the ſaid Term on that Feaſt became due and in Arrear from the ſaid *J. L.* to the ſaid *G.* by reaſon of which an Action accrued to the ſaid *G.* to demand and have of the ſaid *J. L.* the ſaid Six Pounds Twelve Shillings and Six Pence; Nevertheleſs the ſaid *J. L.* (altho' often requeſted) has not rendered to the ſaid *G.* the ſaid Six Pounds Twelve Shillings and Six Pence, or any Part thereof, but has hitherto wholly denied, and ſtill doth deny to render the ſame to the ſaid *G.* whereby the ſaid *G.* ſays that he is injured, and hath Damage to the Value of Forty Shillings; And thereupon he brings Suit, *&c.*

And the ſaid *J. L.* by *J. D.* his Attorney comes and defends the Force and Injury, when, *&c.* and as to the Sum of Six Pounds Twelve Shillings and Six Pence which the ſaid *G.* above by his ſaid Declaration ſuppoſeth to have been become due and in Arrear for the Rent of the Premiſſes from the ſaid *J. L.* to the ſaid *G.* upon the Feaſt of the Annunciation of the Bleſſed Virgin *Mary* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-ſeven, for the laſt Quarter of a Year of the ſaid Term on that Feaſt in the ſaid Declaration mentioned, the ſaid *J. L.* ſaith that no Part thereof is due and in Arrear to the ſaid *G.* as the ſaid *G.* by his ſaid Declaration above

Plea. *Nothing in Arrear.*

above ſuppoſeth; And of this he puts himſelf upon the Country, *&c.*

Declaration againſt a Hundred on the Statute of Hue and Cry.

Staffordſhire, *to wit*, The Inhabitants of the Hundred of *Pirehill* in the County of *Stafford* were attached to anſwer as well to our Sovereign Lord the now King as to *H. W.* who as well for the ſame Lord the King as for himſelf in this Behalf ſues of a Plea, wherefore whereas in a certain Statute made in the Parliament of the Sovereign Lord *Edward* the Firſt late King of *England*, held at *Weſtminſter* in the Thirteenth Year of his Reign (amongſt other Things) it is ordained, Foraſmuch as from Day to Day Robberies, Murders, Burning of Houſes and Theft were then more often uſed then they had been theretofore, and Felons could not be attainted by the Oaths of Jurors, who had rather ſuffer Strangers to be robbed, and to paſs without Pain, than to indict the Offenders, great Part of whom were People of the ſame Country; or at the leaſt if the Offenders were of another Country, the Receivers were of Places near, and they did the ſame becauſe an Oath was not given unto Jurors of the ſame Country where ſuch Felonies were done; and as to the Reſtitution of Damages before that Time no Pain had been limited for their Concealment and Laches, the ſaid Lord the late King for to abate the Power of Felons had eſtabliſhed a Pain in that Caſe, ſo that from thenceforth for fear of the Pain more than

Stat. of Wincheſter, 13 E. 1. St. 2. c. 1.

than for fear of any Oath, they ſhould not ſpare any nor conceal any Felonies. And the ſaid Lord the late King did command, that Cries ſhould be ſolemnly made in all Counties, Hundreds, Markets, Fairs, and all other Places where great Reſort of People was, ſo that none ſhould excuſe himſelf by Ignorance, that from thenceforth every Country ſhould be ſo well kept, that immediately upon ſuch Robberies and Felonies committed freſh Suit ſhould be made from Town to Town, and from Country to Country; likewiſe when Need is required, Inqueſt ſhould be made in Towns by him that was Lord of the Town, and after in the Hundred and in the Franchiſe, and in the County, and ſometimes in two or three or four Counties, in caſe when Felonies ſhould be committed in the Marches of Shires, ſo that the Offenders might be attainted; and if the Country would not anſwer for the Bodies of ſuch Manner of Offenders the Pain ſhould be ſuch, that every Country, (that is to ſay) the People dwelling in the Country, ſhould be anſwerable for the Robberies done and all the Damages, ſo that the whole Hundred where the Robberies ſhould be done, with the Franchiſes, being within the Precinct of the ſame Hundred, ſhould be anſwerable for the Robberies ſo done; and if the Robbery ſhould be done in the Diviſion of two Hundreds both the Hundreds and the Franchiſes within them ſhould be anſwerable; and

after that the Felony or Robbery was done the Countries ſhould have no longer Space than Forty Days, within which it ſhould behove them to agree for the Robbery or Offence, or elſe that they ſhould anſwer for the Bodies of the Offenders, as is plainly contained in the aforeſaid Statute; *And for that whereas* two certain Robbers to the ſaid *H. W.* unknown, on the Fifth Day of *May* in the Tenth Year of the Reign of the ſaid Lord the now King, in the King's Highway within the Hundred of *Pirehill* aforeſaid in the ſaid County of *Stafford*, to wit, at a certain Place near *Weſton*, commonly called *Wodden Lane*, between *Weſton* and *Amerton* in the Pariſh of *Weſton* in the ſaid County of *Stafford*, within the Hundred of *Pirehill* aforeſaid in the County of *Stafford* aforeſaid, with Force and Arms upon him the ſaid *Henry* made an Aſſault, and Twenty-five Pounds in Money of lawful Money of *Great Britain*, of the proper Monies of him the ſaid *H. W.* and alſo a leather Purſe value Six Pence of like lawful Money of *Great Britain*, of the proper Goods and Chattels of him the ſaid *H. W.* then and there found, of and from the ſaid *H. W.* did feloniouſly take and rob and carry away, againſt the ſaid Peace of our ſaid Lord the now King; and the ſaid *H. W.* immediately after the Felony and Robbery aforeſaid done at *Wodden Lane* aforeſaid in the ſaid Pariſh of *Weſton*, within the Hundred of *Pirehill* aforeſaid in the County aforeſaid, being near

Stat. 27 Eliz. c. 13.

near the ſaid Place where the ſame Felony and Robbery ſo as aforeſaid was committed, did make Hue and Cry of the aforeſaid Felony and Robbery upon him made, and then and there did give Notice to the Inhabitants of the Pariſh of *Weſton* aforeſaid of the ſame Felony and Robbery; and did alſo, with as much convenient Speed as might be after the aforeſaid Robbery on him committed as aforeſaid, give Notice hereof to *T. W.* then a Conſtable of the ſaid Pariſh of *Weſton* aforeſaid in the ſaid Hundred of *Pirehill*, being near unto the Place where the ſaid Robbery was committed as aforeſaid, and deſcribe in the aforeſaid Notice to the aforeſaid Conſtable, ſo far as the Nature and Circumſtances of the Caſe did admit, the ſaid Felons, and the Time and Place of the aforeſaid Robbery; and did alſo, within the Space of Twenty Days next after the aforeſaid Robbery committed, cauſe public Notice to be given thereof in the *London Gazette*, and did therein likewiſe deſcribe, ſo far as the Nature and Circumſtances of the ſaid Caſe did admit, the ſaid Felons, and the Time and Place of the aforeſaid Robbery, together with the ſaid Money, Goods and Effects whereof he the ſaid *H.* was robbed as aforeſaid, and afterwards did, and before the ſuing forth of the Original Writ of him the ſaid *H.* to wit, on the Fifteenth Day of *October* in the Eleventh Year of the Reign of the ſaid Lord the now King, he the ſaid *H.*

went before the Sheriff of the County of *Stafford* aforesaid, and did then before the said Sheriff enter into a Bond to *T. B.* and *J. C.* then being High Constables of the Hundred of *Pirehill* aforesaid, in the penal Sum of one Hundred Pounds, with two sufficient Sureties, *to wit*, *W. L.* of *Newport* in the County of *Salop* Taylor, and *G. J.* of the same Place Carpenter, approved by the said Sheriff, with Condition for securing to the said High Constables the due Payment of their Costs, after the same should be taxed by the proper Officer, in case that he the said *H. W.* should happen to be nonsuited, or should discontinue his Action to be brought against the said Inhabitants of the Hundred of *Pirehill* aforesaid on Account of the aforesaid Robbery; or in case that Judgment should be given against him the said *H. W.* on Demurrer, or that Verdict should be given against him therein, according to the Form and Directions of the Statute in such Case lately made and provided; and after the Felony and Robbery aforesaid done, and within Twenty Days next before the Day of the suing forth of the said Original Writ of him the said *H. W.* he the said *H. W.* before *T. W.* Esq; then one of the Justices of our said Lord the now King, assigned to keep the Peace of our said Lord the now King in and for the County of *Stafford* aforesaid, then inhabiting at *Haywood* in the Parish of *Colwick* within the Hundred of *Pirehill* aforesaid in the County

Stat. 8 Geo. 2. c. 16.

County of *Stafford* aforeſaid, was examined upon his corporal Oath according to the Form of the Statute in that caſe made and provided, and the ſaid *H. W.* upon his ſaid Oath before the ſaid *T. W.* then and there ſaid, that he did not know the Parties who had committed the aforeſaid Robbery or either of them; and after the Felony and Robbery upon him made as aforeſaid, and after the ſaid public Notice given of the aforeſaid Robbery in the aforeſaid *London Gazette*, Forty Days of the Suing forth of the ſaid Original Writ of the ſaid *H.* were paſt; yet the ſaid Inhabitants of the Hundred of *Pirehill* aforeſaid in the County of *Stafford* aforeſaid, have not hitherto made to the ſaid *H. W.* Satisfaction for the Robbery and Damages aforeſaid, nor the Bodies of the Felons and Malefactors aforeſaid, nor the Bodies of either of them, have taken, nor for the Bodies of them, nor for the Bodies of either of them hitherto have anſwered, but the ſame Felons and Malefactors have permitted to eſcape, in Contempt of the ſaid Lord the now King, and to the great Damage of him the ſaid *H. W.* and againſt the ſaid Form of the Statute aforeſaid in the aforeſaid Thirteenth Year of the Reign of the ſaid late Lord King *Edward* the Firſt in ſuch caſe made and provided; and whereupon the ſaid *H.* who as well for the ſaid Lord the now King, as for himſelf in this Behalf ſues by *R. D.* his Attorney complains, that certain Robbers,

Stat. 27 Eliz. c. 13. §. 11.

to

to wit, two Men, to the ſame *H. W.* unknown, on the aforeſaid Fifth Day of *May* in the aforeſaid Tenth Year of the Reign of the ſaid Lord the now King, in the King's Highway within the Hundred of *Pirehill* aforeſaid in the County of *Stafford* aforeſaid, *to wit*, at a certain Place near *Weſton* aforeſaid, commonly called *Wodden Lane*, between *Weſton* and *Amerton* in the Pariſh of *Weſton* in the ſaid County of *Stafford*, within the Hundred of *Pirehill* aforeſaid in the County of *Stafford* aforeſaid, with Force and Arms, *to wit*, with Piſtols, Swords, Staves and Knives in and upon him the aforeſaid *H.* did make an Aſſault, and Twenty-five Pounds in Money of lawful Money of *Great Britain* of the proper Monies of him the ſaid *H. W.* and alſo a leather Purſe value Six Pence of like lawful Money of *Great Britain* of the proper Goods and Chattels of him the ſaid *H.W.* then and there found, of and from the ſaid *H.* did felonioufly take and rob and carry away, againſt the Peace of our ſaid Lord the now King, *&c.* And the ſaid *H.* immediately after the Felony and Robbery aforeſaid done, *to wit*, on the ſaid Fifth Day of *May* in the Tenth Year of the Reign of the ſaid Lord the now King aforeſaid, at *Wodden Lane* aforeſaid in the ſaid Pariſh of *Weſton* within the Hundred of *Pirehill* aforeſaid in the County aforeſaid, which ſaid Place called *Wodden Lane* is, and then was near the ſaid Place where the ſaid Felony and Robbery ſo as aforeſaid

ſaid was committed, did make Hue and Cry of the Felony and Robbery aforeſaid upon him made, and then and there give Notice to the Inhabitants of the ſaid Pariſh of *Weſton* of the ſame Felony and Robbery; and did alſo, with ſo much convenient Speed as might be after the aforeſaid Robbery on him committed as aforeſaid, that is to ſay, on the ſaid Sixth Day of *May* in the Tenth Year aforeſaid, give Notice thereof to *T. W.* then a Conſtable of the ſaid Pariſh of *Weſton* aforeſaid in the ſaid Hundred of *Pirehill*, being near unto the Place where the ſaid Robbery was committed as aforeſaid; and did deſcribe in the aforeſaid Notice to the aforeſaid Conſtable, ſo far as the Nature and Circumſtances of the Caſe did admit, the ſaid Felons and the Time and Place of the aforeſaid Robbery; and did alſo, within the Space of Twenty Days next after the aforeſaid Robbery committed, cauſe public Notice to be given thereof in the *London Gazette*, and did therein likewiſe deſcribe, ſo far as the Nature and Circumſtances of the ſaid Caſe did admit, the ſaid Felons and the Time and Place of the aforeſaid Robbery, together with the ſaid Money, Goods and Effects whereof he the ſaid *H.* was robbed as aforeſaid, and afterwards, and before the Suing forth of the Original Writ of him the ſaid *H.* to wit, on the Fifteenth Day of *October* in the Eleventh Year of the Reign of the ſaid Lord the now King aboveſaid, he the ſaid

H.

H. went before the Sheriff of the County of *Stafford* aforesaid, and did then before the same Sheriff enter into a Bond unto *T. B.* and *J. C.* High Constables of the Hundred of *Pirehill* aforesaid, in the penal Sum of one Hundred Pounds, with two sufficient Sureties, *to wit*, *W. L.* of *Newport* in the County of *Salop* Taylor, and *G. J.* of the same Place Carpenter, approved by the said Sheriff, with the Condition for securing to the said High Constables the due Payment of their Costs, after the same should be taxed by the proper Officer, in case that he the said *H. W.* should happen to be nonsuited, or should discontinue his Action to be brought against the said Inhabitants of the Hundred of *Pirehill* aforesaid on account of the aforesaid Robbery, or in case that Judgment should be given against him the said *H W.* on Demurrer, or that a Verdict should be given against him therein, according to the Form and Direction of the Statute in such Case lately made and provided; and after the Felony and Robbery aforesaid done, and within Twenty Days next before the Day of the Suing forth of the Original Writ of him the said *H. W.* to wit, on the aforesaid Fifteenth Day of *October* in the Eleventh Year of the Reign of our said Lord the now King abovesaid, he the said *H. W.* before the said *T. W.* Esq; then one of the Justices of the said Lord the now King, assigned to keep the Peace of the same Lord the now King in and for the

County of *Stafford* aforeſaid, then inhabiting at *Haywood* in the Pariſh of *Colwick* within the Hundred of *Pirehill* aforeſaid in the County of *Stafford* aforeſaid, was examined upon his corporal Oath, according to the Form of the Statute in that Caſe made and provided; and the ſaid *H. W.* upon his ſaid Oath then and there before the ſaid *T. W.* ſaid, that he did not know the Parties who had committed the aforeſaid Robbery, or either of them, and after the Felony and Robbery upon him made as aforeſaid, and after the ſaid public Notice given of the aforeſaid Robbery in the aforeſaid *London Gazette*, Forty Days of the Day of ſuing forth of the ſaid Original Writ of the ſaid *H.* were paſt; *Yet* the ſaid Inhabitants of the Hundred of *Pirehill* aforeſaid in the County of *Stafford* aforeſaid have not hitherto made to the ſaid *H. W.* Satisfaction for the Robbery and Damages aforeſaid, nor the Bodies of the ſaid Felons and Malefactors aforeſaid, nor the Bodies of either them have taken, nor for the Bodies of them, nor for the Bodies of either of them, hitherto have anſwered, but the ſame Felons and Malefactors have permited to eſcape, in Contempt of the ſaid Lord the now King, and to the great Damage of him the ſaid *H. W.* againſt the Form of the Statute aforeſaid, in the aforeſaid 13th Year of the Reign of the ſaid late Lord King *Edward* the Firſt in ſuch caſe made and provided; whereupon the ſaid *H. W.* who as well for the ſaid Lord the now King as

as for himſelf ſues, ſays that he is detrimented and hath Damage to the Value of Forty Pounds; And thereupon he brings this Suit, &c.

Plea. *Not Guilty.*

And the ſaid Inhabitants in the Hundred of *Pirehill* by *H. D.* their Attorney come and defend the Force and Injury, when, &c. and ſay, that they are no wiſe guilty of the Premiſſes above laid to their Charge, as the ſaid *H. W.* who as well, &c. above complains againſt them: And of this they put themſelves upon the Country; and the ſaid *H. W.* who as well, &c. does likewiſe the ſame: And thereupon the ſame *H. W.* ſays, that the Inhabitants in the Hundred of *Pirehill* aforeſaid where the Robbery was committed are Parties Defendants, againſt whom the ſaid *H. W.* who as well, &c. above in Form aforeſaid complains, and for that Cauſe craveth the Writ of the Lord the King to be directed to the Sheriff of the County aforeſaid, to cauſe to come Twelve, &c. of the *Venue* of the Hundred of *Offlow* in the County aforeſaid, which ſaid Hundred of *Offlow* is the next Hundred in the ſame County adjacent to the aforeſaid Hundred of *Pirehill*, to try the Iſſue aforeſaid above in Form aforeſaid joined: And becauſe the ſaid Inhabitants in the aforeſaid Hundred of *Pirehill* do not deny this, it is granted to him; Therefore the Sheriff is commanded, that he cauſe to come here in Eight Days of the Purification of the Bleſſed Virgin *Mary* Twelve, &c. of the *Venue* of the Hundred of *Offlow*, by whom, &c.

Iſſue. Venire *of the next adjacent Hundred.*

&c. and who neither, *&c.* to recognize, *&c.* becauſe as well, *&c.*

Kent, *to wit*, *E. L.* late, *&c.* was ſummoned to anſwer to the Poor of the ſaid Pariſh of *E.* in the County aforeſaid, and to Sir *J. S.* Bart. who ſues in this Particular as well for himſelf as for the ſaid Poor of the ſaid Pariſh of *E.* aforeſaid, of a Plea, that he render to the ſaid Poor and the ſaid *J. S.* who ſues as aforeſaid, Ten Pounds of lawful Money of *Great Britain*, which he owes to, and unjuſtly detains from them, *&c.* And thereupon the ſaid Sir *J.* who ſues as aforeſaid by *H. C.* his Attorney ſaith, that the ſaid *E.* on the Thirtieth Day of *March* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-ſix, at and in the Pariſh of *E.* aforeſaid did keep a certain Greyhound for the Deſtruction of the Game of this Kingdom, he the ſaid *E.* then not being a Perſon qualified by the Laws of this Realm to keep a Greyhound for the Deſtruction of the Game, againſt the Form of the Statute in ſuch caſe made and provided, whereby, and by Force of the Statutes in ſuch Caſe lately made and provided, an Action hath accrued to the ſaid Poor of the Pariſh aforeſaid, and to the ſaid Sir *J.* who ſues as aforeſaid, to demand and have of the ſaid *E.* for his ſaid Offence Five Pounds, Parcel of the ſaid Ten Pounds. And the ſaid Sir *J.* who ſues as aforeſaid, further ſaith, that the ſaid *E.* on the Thirtieth

Debt. Qui tam *for keeping a Greyhound and killing a Hare not being qualified.*

Day of *March* in the Year aforeſaid, in the ſaid Pariſh of *E.* in the County aforeſaid, did with a certain Greyhound kill one Hare, he the ſaid *E.* then not being a Perſon qualified to kill Game, againſt the Form of the Statute in ſuch Caſe lately made and provided, whereby, and by force of the Statutes in ſuch Caſe lately made and provided, an Action hath accrued to the ſaid Poor of the Pariſh aforeſaid, and to the ſaid Sir *J.* who ſues as aforeſaid, to demand and have of the ſaid *E.* for his ſaid laſt mentioned Offence Five Pounds, Reſidue of the ſaid Ten Pounds: Yet the ſaid *E.* (although often requeſted) hath not yet paid the ſaid Ten Pounds, or any Part thereof, to the ſaid Poor and the ſaid Sir *J.* who ſues as aforeſaid, or to either of them; but he to pay the ſame to the ſaid Poor and the ſaid Sir *J.* who ſues as aforeſaid, hitherto wholly hath and ſtill doth refuſe, to the ſaid Sir *J.* who ſues as aforeſaid his Damage of Ten Pounds; And therefore as well for the ſaid Poor as for himſelf he brings his Suit, *&c.*

Plea. Nil Debet.

And the ſaid *E. L.* by *R. P.* his Attorney comes and defends the Wrong and Injury, when, *&c.* and ſays that he does not owe to the ſaid Sir *J.* who as well, *&c.* the ſaid Sum of Ten Pounds, or any Part thereof, in Manner and Form as the ſaid Sir *J.* who as well, *&c.* above thereof complains againſt him: And of this he puts himſelf upon the Country; and the

ſaid

ſaid Sir *J.* who ſues as aforeſaid, does likewiſe the ſame; Therefore, *&c.*

Judgment for not entering Iſſue.

And the ſaid Sir *J. S.* although ſolemnly called came not, nor hath entered his ſaid Iſſue, nor hath further proſecuted his Writ; Therefore he and his Pledges of Proſecution are thereupon amerced, *&c.* and the Names of the Pledges of the ſaid Sir *J.* are, *&c.* and that the ſaid *E. L.* depart without Day, *&c.* It is alſo conſidered, that the ſaid *E.* do recover againſt the aforeſaid Sir *J.* his Damages by reaſon of the Premiſſes, to Three Pounds Sixteen Shillings and Eight Pence to the ſaid *E.* by the Diſcretion of the Juſtices here adjudged at his Requeſt for his Coſts and Charges in this Behalf ſuſtained, according to the Form of the Statute in ſuch Caſe made and provided.

Declaration for ſhooting a Greyhound.

Leiceſterſhire, *to wit*, *H. R.* late, *&c.* was attached to anſwer *B. D.* in a Plea, wherefore with Force and Arms a certain Greyhound Bitch, and a certain other Bitch of the ſaid *B.* of the Price of Ten Pounds, at *M.* aforeſaid in the County aforeſaid, with a Gun he ſhot at and killed, whereby the ſaid *B.* not only loſt the ſaid Bitches, but alſo certain young Whelps, *to wit*, Five young Whelps of the ſaid Greyhound Bitch, and certain young Whelps, *to wit*, Five young Whelps of the ſaid other Bitch, which died for want of the ſaid Bitches to ſuckle them, *to wit*, at *M.* aforeſaid; and a certain other Greyhound

Bitch, and a certain other Bitch of the ſaid *B.* lately found at *M.* aforeſaid, of the Price of Ten Pounds, he ſhot at, hit, ſtruck, ſmote and wounded, by means whereof the laſt mentioned two Bitches afterwards at *M.* aforeſaid died, whereby the ſaid *B.* not only loſt the ſaid two laſt mentioned Bitches, but alſo certain other young Whelps, *to wit*, Five other young Whelps of the ſaid laſt mentioned Greyhound Bitch; and certain other young Whelps, *to wit*, Five young Whelps of the other of the two laſt mentioned Bitches, which afterwards died for want of the two laſt mentioned Bitches to ſuckle them, *to wit*, at *M.* aforeſaid; and did other Wrongs to the ſaid *B.* to the great Damage of the ſaid *B.* and againſt the Peace of our Sovereign Lord the King that now is, *&c.* And whereupon the ſaid *B.* by *J. B.* his Attorney complains, that the ſaid *H.* on the Fifteenth Day of *January* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-ſix, with Force and Arms, *&c.* a certain Greyhound Bitch, and a certain other Bitch of the ſaid *B.* of the Price of Ten Pounds, then found at *M.* aforeſaid, with a Gun he ſhot at and killed, whereby the ſaid *B.* not only loſt the ſaid Bitches, but alſo certain young Whelps, *to wit*, Five young Whelps of the ſaid Greyhound Bitch; and certain young Whelps, *to wit*, Five young Whelps of the other of the ſaid Bitches, which afterwards, *to wit*, the ſame

ſame Day and Year at *M.* aforeſaid died for want of the ſaid Bitches to ſuckle them; and a certain other Greyhound Bitch, and a certain other Bitch of the ſaid *B.* then found at *M.* aforeſaid of the Price of Ten Pounds, ſhot at, hit, ſtruck, ſmote and wounded; by means whereof the laſt mentioned two Bitches afterwards, *to wit*, the ſame Day and Year at *M.* aforeſaid died, whereby the ſaid *B.* not only loſt the two laſt mentioned Bitches, but alſo certain other young Whelps, *to wit*, Five young Whelps of the laſt mentioned Greyhound Bitch; and certain other young Whelps, *to wit*, Five young Whelps of the other of the two laſt mentioned Bitches, which afterwards, *to wit*, the ſame Day and Year died for want of the two laſt mentioned Bitches to ſuckle them, *to wit*, at *M.* aforeſaid, and did other Wrongs to the ſaid *B.* to the great Damage of the ſaid *B.* and againſt the Peace of our ſaid Sovereign Lord the King that now is, whereby the ſaid *B.* ſaith that he is injured and damnified, to the Value of Ten Pounds; And thereupon he brings Suit, *&c.*

Plea.

Deft. juſtifies as Keeper of a Park.

And the aforeſaid *H.* by *S. S.* his Attorney comes and defends the Force and Injury, when, *&c.* And as to the coming with Force and Arms, and the whole Treſpaſs aforeſaid above ſuppoſed to be done, except the Shooting at, and killing of the ſaid Greyhound Bitch in the ſaid Declaration firſt mentioned, ſaith that he is not

First Issue.

guilty: And of this he puts himself upon the Country; And the said *B.* likewise, *&c.* And as to the Shooting at, and Killing of the said Greyhound Bitch in the said Declaration first mentioned above supposed to be done, the aforesaid *H.* saith, that the said *B.* ought not to have his aforesaid Action thereof against him because he saith, that Sir *W. D.* Bart. long before the said Time, when, *&c.* and at the same Time, when, *&c.* was, and still is possessed of and in a certain ancient Park called *B.* Park in *M.* aforesaid; in which said Park, long before the said Time, when, *&c.* and at the said Time, when, *&c.* were great Numbers of Deer; of which Park the aforesaid *H.* before the said Time, when, *&c.* and at the said Time, when, *&c.* was Keeper, and had the Care and Custody thereof. And the said Sir *W.* being so as aforesaid possessed of the said Park, the said Greyhound Bitch at diverse Times before the said Time, when, *&c.* was used to haunt the said Park, and to hunt, chase and drive the said Deer, in order to bite, wound and kill them, to the great Hurt and Damage of the said Deer; and at the said Time, when, *&c.* was in the aforesaid Park for the Purpose aforesaid; Whereupon the aforesaid *H.* as Keeper and Servant of the aforesaid Sir *W.* and by his Command, at the said Time, when, *&c.* in the said Park, for the Preservation of the said Deer, there did shoot at, and kill the said Greyhound Bitch there,

there, as it was lawful for him to do, which is the ſame Shooting at and Killing of the ſaid Greyhound Bitch in the ſaid Declaration firſt mentioned, whereof the ſaid *B.* doth above in that Behalf complain againſt him: And this he is ready to verify: Whereupon he prays Judgment, if the ſaid *B.* ought to have his aforeſaid Action thereof againſt him, *&c.*

Plea to a Prohibition.

And the ſaid *T. K.* by *C. G.* his Attorney cometh and defendeth the Force and Injury, when, and ſo forth, and ſaith, that he did not proſecute or follow his ſaid Suit in the ſaid Spiritual Court againſt the ſaid *R. R.* againſt the Prohibition of our ſaid Lord the King to him directed and delivered in Manner and Form as the ſaid *R.* who ſueth as well for the King as for himſelf, by his Writ and Declaration aforeſaid hath above ſuppoſed: And of this he putteth himſelf upon the Country; And the ſaid *R.* who as well, and ſo forth, likewiſe: And for the obtaining the Writ of our Lord the King of Conſultation in this Behalf, he the ſaid *T.* ſaith, that long before the Proſecution of the ſaid Suit in the ſaid Spiritual Court againſt the ſaid *R.* he the ſaid *T.* was and now is ſeiſed of a certain ancient Meſſuage with the Appurtenances, in *Park-Lane* in *Towceſter* aforeſaid, in his Demeſne as of Fee, and that the ſaid Pew in the ſaid Church of *Towceſter* in the ſaid Declaration mentioned, was and

Firſt Iſſue.

is an ancient Pew, without the Addition of any Seat or Form in the ſaid Church within the Memory of Man taken in or made Parcel of the ſaid Pew; and that he the ſaid *T.* and all thoſe whoſe Eſtate he hath in the ſaid Meſſuage with the Appurtenances, and their Tenants thereof, from the Time whereof the Memory of Man is not to the contrary, have and hath ſuſtained, amended and repaired the ſaid Pew as often as need required at his and their own proper Coſts, and by reaſon thereof from the Time aforeſaid he and they, and ſuch other Perſon and Perſons as he and they hath and have from Time to Time licenſed to ſit therein, hath and have uſed and been accuſtomed to ſit therein to hear Divine Service and Preaching the Word of God in the ſaid Church, as in a Pew belonging to the ſaid Meſſuage with the Appurtenances, ſo that no other Perſon from the Time aforeſaid in Time of Divine Service and Preaching the Word of God in the ſaid Church, hath had any Seat or Place in the ſaid Pew without the Licence or againſt the Will of the ſaid *T.* or of thoſe whoſe Eſtate he hath in the ſaid Meſſuage with the Appurtenances, or of his or their Tenants thereof for the Time being, neither could or ought ſuch other Perſon to ſit therein, otherwiſe than by ſuch Licence as aforeſaid. And the ſaid *T.* ſaith, that he being ſo ſeiſed of, and dwelling in the ſaid Meſſuage with the Appurtenances, the

ſaid

ſaid *R.* who as well, and ſo forth, before the ſaid Proſecution in the ſaid Spiritual Court, *to wit*, on the Firſt Day of *April* in the Year of our Lord one Thouſand ſeven Hundred and Thirty-three, in Time of Divine Service in the ſaid Church, without the Licence and againſt the Will of the ſaid *T.* did intrude himſelf into the ſaid Pew, and diſturbed him the ſaid *T.* and his Family and Friends then and there being by and with the Licence of him the ſaid *T.* wherefore he the ſaid *T.* for Remedy in that Behalf, before the Prohibition of our ſaid Lord the King to the contrary thereof to him directed was delivered, did inſtitute his ſaid Suit in the ſaid Spiritual Court againſt the ſaid *R.* as it was lawful for him to do; without that, that he the ſaid *R.* who as well, and ſo forth, and all thoſe whoſe Eſtate he had and hath in the ſaid ancient Meſſuage in the ſaid Declaration mentioned to be then, or late in the Tenure or Occupation of *L. R.* with the Appurtenances, from Time beyond the Memory of Man have at their own Coſts repaired one Seat or Form in the ſaid Church lately taken in, and made Parcel of a Pew in the ſaid Church, and therefore have had and uſed for themſelves and Family inhabiting in the ſaid Meſſuage, the ſole and ſeparate Uſe of the ſaid Seat or Form for the Hearing and Attending of Divine Service in the ſaid Church, in Manner and Form as the ſaid *R.* who as well, and ſo forth, by his ſaid

Declaration hath ſuppoſed: And this the ſaid *T.* is ready to verify, with this alſo, that the ſaid *T.* will verify, that the Pew in the ſaid Declaration mentioned, and the Pew in the Plea of him the ſaid *T.* beforementioned, is one and the ſame Pew, and not different: Wherefore he prayeth Judgment, and the Writ of our ſaid Lord the King of Conſultation in this Behalf to be granted unto him.

Replication in Prohibition.

And the ſaid *R. R.* ſays, that the ſaid *T. K.* ought not, for the Reaſon by him alledged, to have his ſaid Majeſty's Writ of Conſultation in this Behalf, becauſe he ſays, as before, that he the ſaid *R.* who as well, *&c.* and all thoſe whoſe Eſtate he had and hath in the ſaid ancient Meſſuage in the ſaid Declaration mentioned to be then or late in the Tenure or Occupation of *L. R.* with the Appurtenances, from Time beyond the Memory of Man have at their own Coſts repaired one Seat or Form in the ſaid Church lately taken in and made Parcel of a Pew in the ſaid Church, and therefore have had and uſed for themſelves and Family inhabiting in the ſaid Meſſuage, the ſole and ſeparate Uſe of the ſaid Seat or Form for the Hearing and Attending of Divine Service in the ſaid Church, in Manner and Form as the ſaid *R.* who as well, *&c.* by his ſaid Declaration hath alledged: And this he prays may be inquired of by the Country; And the ſaid *T. K.* does the ſame: Therefore

fore as well to try the ſaid Iſſue, as the aforeſaid other Iſſue between the ſaid Parties above joined, the Sheriff is commanded, *&c.* Vide *antea* fol. 442.

Plea to a Bond that it was given for Money won at Play.

And the ſaid *H.* by *G. S.* his Attorney cometh and defendeth the Force and Injury, when, *&c.* and prayeth the Hearing of the ſaid Writing Obligatory, and it is read to him; in theſe Words, *to wit*, Know all Men, *&c.* [*the Obligation*] and he prays alſo the Hearing of the Condition of the ſaid Writing Obligatory, and it is read to him in theſe Words, *to wit* (here enter the Condition) which being read and heard, he the ſaid *H.* ſaith, that he by virtue of the ſaid Writing Obligatory ought not to be charged with the ſaid Debt, becauſe he ſaith, that after the Twenty-ninth Day of *September* in the Year of our Lord one Thouſand ſix Hundred and Seventy-four, and before the Making the ſaid Writing Obligatory, *to wit*, on the ſaid Firſt Day of *July* in the ſaid Year of our Lord one Thouſand ſeven Hundred and Thirty-three, at *Weſtminſter* aforeſaid, he the ſaid *H.* played with the ſaid *S.* at a certain Play with Dice called *Hazard*, for diverſe Sums of Money exceeding the Sum of one Hundred Pounds, upon Ticket and Credit, and not for ready Money; and that he the ſaid *H.* ſo playing with the ſaid *S.* at the ſaid Play, then and there at one and the ſame Time and Meeting loſt upon Credit to and with the ſaid *S.* in the Whole a great Sum

Sum of Money, exceeding the Sum of one Hundred Pounds, *to wit*, the Sum of five Hundred Pounds, whereof no Part was then paid by the ſaid *H.* And the ſaid *H.* afterwards thereupon, *to wit*, on the ſaid Firſt Day of *July* in the Year of our Lord one Thouſand ſeven Hnndred and Thirty-three aforeſaid, at *Weſtminſter* aforeſaid, made and delivered the aforeſaid Writing Obligatory with the aforeſaid Condition thereto ſubſcribed for the Securing the Payment of the ſaid five Hundred Pounds by him the ſaid *H.* ſo loſt; and by the ſaid *S.* ſo as aforeſaid at the ſaid Play won of the ſaid *H.* at one and the ſame Time and Meeting upon Credit, whereby by Force of the Statute in ſuch Caſe made and provided the ſaid Writing Obligatory wholly became and is void, and of no effect in Law: And this he is ready to verify: Wherefore he prays Judgment, whether he ought to be charg'd with the ſaid Debt by Virtue of the ſaid Writing Obligatory, *&c.*

Replication. And the ſaid *S.* ſaith, that by reaſon of any Thing above by the ſaid *H.* in pleading alledged he ought not to be barred from having his ſaid Action againſt him, becauſe he ſaith, that the ſaid Bond was not given for ſecuring the Payment of Money won at the ſaid Play by the ſaid *S.* of the ſaid *H.* as the ſaid *H.* hath above pleaded: And this he prays may be inquired of by the Country; And the ſaid *H.* likewiſe; Therefore, *&c.*

And

And the ſaid *J.* by *R. S.* her Attorney, *&c.* and prays Oyer of the ſaid Bond, and it is read to her, *&c.* She alſo prays Oyer of the Condition of the ſaid Bond, and it is read to her in theſe Words, *to wit*, The Condition, *&c.* (*here recite the Condition*) which being read and heard the ſaid *J.* ſays, that the ſaid *J. A.* ought not to have his ſaid Action againſt her, becauſe ſhe ſays, that the ſaid Arbitrators in the ſaid Condition of the ſaid Bond named did not make any Award for or upon the Premiſſes in Writing indented under their Hands and Seals, ready to be delivered to the ſaid Parties on or before the ſaid Twenty-ninth Day of *October* next enſuing the Date of the ſaid Bond; neither did the ſaid Arbitrators chooſe any Umpire for the Ending and Compoſing the Differences aforeſaid, within the Time in the Condition of the ſaid Bond limited in that reſpect: And this ſhe is ready to verify: Wherefore ſhe prays Judgment, if the ſaid *J.* ought to have his ſaid Action againſt her, *&c.*

Plea to an Arbitration Bond.

Arbitrators made no Award.

And the ſaid *J.* ſaith, that he ought not by reaſon of any Thing above alledged by the ſaid *J.* to be barred from having his ſaid Action againſt her, becauſe he ſays, that on the Twenty-ninth Day of *October* in the Condition above mentioned, the ſaid *J. W.* and *T. S.* the Arbitrators named in the ſaid Condition, having taken upon them the Burden of the ſaid Award, and having fully examined and duly conſidered

Replication.

ſidered the Proofs and Allegations of both the ſaid Parties, for the ſettling Amity and Friendſhip between them at the City of *Bath* aforeſaid in the County aforeſaid, made and publiſhed their Award and Order of and concerning the Premiſſes ſpecified in the aforeſaid Condition in writing indented under their Hands and Seals, in Manner and Form following (that is to ſay) That all Actions, Suits, Quarrels, Controverſies and Demands whatſoever had, moved, ariſen and depending between the ſaid Parties, for any Manner of Cauſe whatſoever to the Day of the Date of the ſaid Award, ſhould ceaſe and be no further proſecuted; and that each of the ſaid Parties ſhould pay and bear his and her own Coſts and Charges in any wiſe relating to or concerning the ſaid Premiſſes; And the ſaid Arbitrators in and by their ſaid Award did further Award, Order and finally Determine that the ſaid *J. S.* her Heirs, Executors or Adminiſtrators, ſhould pay to the ſaid *J. A.* his Executors or Adminiſtrators, the full Sum of Twenty-nine Pounds of good and lawful Money of *Great Britain*, without any Deduction whatſoever, at one intire Payment, on the Thirtieth Day of *January* then next enſuing, at Eleven of the Clock in the Forenoon of the ſame Day, in the Church Porch of the Pariſh of *Wallcot* in the County of *Somerſet*. And laſtly, The ſaid Arbitrators in and by their ſaid Award did Award, Order, and finally Determine, that

that on Payment of the ſaid Sum of Twenty-nine Pounds the ſaid *J. A.* and *J. S.* ſhould in due Form of Law execute each to the other of them General Releaſes, ſufficient in the Law for the Releaſing each to the other of them, his and her Heirs, Executors and Adminiſtrators, of all Actions, Suits, Arreſts, Cauſe and Cauſes of Action, and Suit, Quarrels, Controverſies and Demands whatſoever, for, touching or concerning any Matter, Cauſe or Thing whatſoever, from the Beginning of the World until [the Date of the Bond,] as by the ſaid Award now produced here in Court more fully appears. And the ſaid *J. A.* in fact ſays, that although he hath performed and fulfilled every Thing ſpecified in the aforeſaid Award on his Part to be performed and fulfilled; nevertheleſs the ſaid *J.* hath not paid to him the ſaid *J.* the ſaid Sum of Twenty-nine Pounds on the ſaid Thirtieth Day of *January* next after the Date of the ſaid Award, which ſhe ought to have paid to him on that Day, according to the Form and Effect of the ſaid Award: And this he is ready to verify: Wherefore he prays Judgment, and his Debt together with his Damages, by means of the Detention of the ſaid Debt to be adjudged unto him.

Plea that Deft. did not aſſume, did not aſſume within 6 Years, and that he was a Bankrupt.

And the ſaid *D.* by *T. B.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſays, that he did not aſ-

 ſume

ſume upon himſelf in Manner and Form as the ſaid *G.* above complains againſt him: And of this he put himſelf on the Country; and the ſaid *G.* likewiſe. And the ſaid *D.* by Leave of this Court, according to the Form of the Statute in that Caſe lately made and provided, further ſays, that the ſaid *G.* ought not to have his ſaid Action againſt him the ſaid *D.* becauſe he ſays, that he the ſaid *D.* did not aſſume upon himſelf in Manner and Form as the ſaid *G.* above complains againſt him at any Time within Six Years next before the Day of obtaining the ſaid Original Writ of the ſaid *G.* And this he is ready to verify: Wherefore he prays Judgment, if the ſaid *G.* ought to have his ſaid Action againſt him the ſaid *D.* And the ſaid *D.* by Leave of this Court, according to the Form of the ſaid Statute in that Caſe lately made and provided, further ſays, that the ſaid *G.* ought not to have his ſaid Action againſt the ſaid *D.* becauſe he ſays, that he the ſaid *D.* ſince the Twenty-ſixth Day of *May* in the Year of our Lord one Thouſand ſeven Hundred and Sixteen, mentioned in a certain Act made in the Parliament of his late Majeſty King *George* the Firſt, held by Prorogation on the Eleventh Day of *November* in the Year of our Lord one Thouſand ſeven Hundred and Eighteen, intituled, *An Act for the better preventing Frauds committed by Bankrupts*; and during the Continuance of the ſaid Act, *to wit*, on the —— Day

Day of ——— in the Year of our Lord ——— at *Weſtminſter* aforeſaid, became a Bankrupt within the Intention and Meaning of the ſeveral Statutes made and in Force againſt Bankrupts. And the ſaid *D.* further ſays, that the Cauſe of the aforeſaid Action in the Declaration aforeſaid above ſpecified, did accrue to the ſaid *G.* before the Time in which he the ſaid *D.* did as aforeſaid become Bankrupt: And of this doth put himſelf upon his Country.

Award of Venire, *and Writ of Inquiry, where two Defts. appear, and one lets Judgment go by Default.*

And the ſaid *N.* and *I.* by *J. H.* their Attorney come and defend the Force and Injury, when, and ſo forth, and ſay, that they did not undertake in Manner and Form as the ſaid *J.* above complaineth againſt them: And of this they put themſelves upon the Country; And the ſaid *J.* likewiſe: And the ſaid *M.* by *H. K.* his Attorney cometh and defendeth the Force and Injury, when, and ſo forth, and ſaith nothing in Bar or Preclusion of the aforeſaid Action of the aforeſaid *J.* whereby the ſaid *J.* remains undefended by the ſaid *M.* by reaſon whereof the ſaid *J.* ought to recover againſt the ſaid *M.* his Damages, occaſioned by the Non-performance of his ſaid Promiſes and Undertakings, but becauſe it is not known whether or no the ſaid *N.* and *I.* will be convicted of the Premiſſes; and if they ſhall be convicted, it is convenient and neceſſary that there ſhould be only *one Taxation* of

Damages for the Whole Premiſſes in one Writ ſpecified; and thoſe Damages ought to be ſettled by the Jury of the Country in that Behalf; And that the Writ of Inquiry of Damages aforeſaid againſt the ſaid *M.* be ſtayed, until the ſaid Iſſue as aforeſaid between the ſaid *J.* and the ſaid *N.* and *I.* ſhall be determined; Therefore, as well to try the Iſſue between the ſaid *J.* and the ſaid *N.* and *I.* above joined, as alſo to inquire what Damages the ſaid *J.* hath ſuſtained by Occaſion of the Premiſſes aforeſaid, the Sheriff is commanded that he cauſe to come here Twelve free and lawful Men of the Body of his County, *&c.* by whom, *&c.* and who are not related to the ſaid *N. I.* or *M.* or the ſaid *J.* to recogniſe, *&c.* becauſe as well, *&c.*

A *Rule* or *Meaſure* of COSTS.

WRITS.

	l.	*s.*	*d.*
Capias into *London*	0	9	6
into any other County	0	10	6
Capias by Continuance into *London*	0	8	6
into any other County	0	9	6
Teſtatum Capias	0	8	6
Non Omittas Capias	0	9	8
Attachment of Contempt	0	7	9
Attachment proper	0	7	6
Teſtatum Attachment	0	10	0
Venire	0	7	9
Habeas Corpora	0	8	6
Subpœna ducens tecum	0	7	6
Common *Subpœna*	0	6	6
Drawing and Ingroſſing *Scire Facias*, *per* Sheet each	0	0	8
beſides Fee	0	6	8
Special Original, *per* Sheet	0	0	8
Fee	0	6	8
Drawing and Ingroſſing Writ of Inquiry, *per* Sheet	0	0	4
Fee	0	3	4
Habeas Corpus Fee	0	6	8

	l.	s.	d.
Writ of Poſſeſſion Fee 3 *s.* 4 *d.* Making the Writ 1 *s.* 8 *d.*	0	5	0
Superſedeas	0	8	9
Fi. Fa. and *Ca. Sa.* each	0	6	9
Teſtatum Fi. Fa. and *Ca. Sa.* each	0	10	0

ARRESTS, *&c.*

Serving Proceſs	0	5	0
Arreſts	0	10	0

Nothing more to be allowed for extraordinary Expence and Trouble, even between Attorney and Client, except it be by the Client's expreſs Order.

Serving Notice of Declaration, or Executing a Writ of Inquiry (if under Twenty Miles) 3 *d. per* Mile to and from the Place, *i. e.* 6 *d. per* Mile in the Whole.

The like Allowance in Caſe of Conduct Money.

If above Twenty Miles, for a Neighbouring Attorney	0	10	6

To allow 1 *s.* 4 *d.* for every Defendant the Plaintiff appears for, over and above the the 5 *s.* 4 *d.* allowed for the firſt Defendant.

Entring Appearance between Attorney and Client	0	6	4
Copies of Affidavits in order to ſhew Cauſe, *per* Sheet	0	0	4

ACTIONS *on Judgments or Statutes.*

	l.	*s.*	*d.*
Drawing, *per* Sheet	0	0	8
Copying	0	0	8
Entring	0	0	8
Term Fee	0	6	8

ISSUES, *&c.*

Drawing Iſſue, *per* Sheet	0	0	4
Drawing Forejudger 2 *s.* Ingroſſing the Whole, *per* Sheet	0	0	4
Drawing and Ingroſſing Affidavit, *per* Sheet	0	0	8
Drawing Judgment 2 *s.* Ingroſſing the Whole, *per* Sheet	0	0	4

Preparing for TRIAL.

Paſſing Record	0	6	8
Town Witneſſes (if the Charge exceeds 40 *s.* allowed in Common Coſts) *per Diem*	0	2	6
Country Witneſſes, *per Diem*	0	5	0
Attending the Trial every Day 6 *s.* 8 *d.* and on the Day of Trial between Attorney and Client	0	13	4
If between Party and Party, in the Whole	0	13	4

Bail-Bonds.

	l.	*s.*	*d.*
Common Costs in the Sheriff's Name —— ——	2	10	0
On an Assignment, if 12 Sheets, Judgment by *Nil Dicit*	4	10	0
For every 3 Sheets more ——	0	10	0
If the Plaintiff enter Appearance for Defendant, more —	1	0	0
On *Compar' ad Diem*, the Old Way	3	10	0
On the New Way —— ——	5	10	0
For every 3 Sheets above 12 in a Declaration —— ——	0	10	0

Demurrers.

Concilium and Attendance ——	0	13	10
Argument and Attendance ——	1	7	8
Ulterius Concilium ——	1	7	0

Besides Rules and Service.

Non Pros.

For not Declaring where Appearance —— ——	1	13	4
With Bail, more —— ——	0	10	0
For not replying ——	2	13	4
If Bail, more —— ——	0	10	0
For not joining in Demurrer to Declaration —— ——	3	6	8
Bail more —— ——	0	10	0
And for every other Pleading more, if short ——	1	0	0

For

	l.	*s.*	*d.*
For not entering Iſſue	3	3	4
Bail more	0	10	0
For every Count more than the firſt	0	3	0

COGN' DAMPN',

1. Narr' the ſame Term	5	0	0
Of different Terms	5	10	0
Every Narr' more	0	10	0
With Bail more	0	10	0

By DEFAULT.

Inquiry 1 Narr'	7	10	0
Every Narr' more	0	10	0
If Plaintiff enters Appearance	1	0	0
If in Treſpaſs and Impriſonment, Aſſault, *&c.*	7	16	8
If Plaintiff enters Appearance	8	16	8

TRIALS.

Common Coſts 1 Count	14	10	0
For every Count more	0	10	0
For Treſpaſs, Aſſault or Impriſonment, 5 Sheets or under	14	16	8
Every three Sheets more	0	10	0
In Ejectment, one Demiſe	15	16	8
Every Demiſe more	0	10	0
Common Coſts for not confeſſing Leaſe, Entry and Ouſter on the Rule	16	16	8

	l.	*s.*	*d.*
Attending Taxing Coſts, tho' many Cauſes in a Bill, only conſider'd as one Cauſe, ſo only—	0	3	4

OBSERVATIONS.

1. Nothing for attending a Sheriff or Marſhal in any Caſe.

2. Declaration where *Habeas Corpus* is brought to follow the Office the *Habeas Corpus* is ſigned in.

3. No Attorney to be privileged in any Suit, unleſs it appears on the Face of the Declaration that he ſues for Fees, other Counts not for Fees to be paid for; and no Privilege where he is Defendant either as to Appearance or Pleading.

4. No Declaration to be allowed if the Plaintiff be ſummoned the Day before the Return; but if ſerved upon the Return-Day then Declaration and Entry to be allow'd if Declaration produced.

5. No Maps to be allowed on Trials *inter partes*.

6. No Wrong or Under-Charge to be ſupplied in any Manner, except in Fee for paſſing Record when only charged 3 *s.* 4 *d.* inſtead of 6 *s.* 8 *d.*

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In Caſe any Party ſhall have given ſuch Notice of Trial, as aforeſaid, and ſhall not afterwards duly Countermand the ſame in Writing, at leaſt ſix Days before ſuch intended Trial, ſuch Party ſhall be obliged to pay unto the Party to whom ſuch Notice of Trial ſhall have been given, as aforeſaid, the like Coſts and Charges as if ſuch Notice of Trial had not been countermanded. *Same Stat.* §. 5.

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Provided, that all Judgments given by Virtue of this Act, ſhall be of the like Force and Effect as Judgments upon Nonſuit, and of no other Force or Effect. *Same Stat.* §. 2.

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